

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., MDL No. 2843
CONSUMER USER PROFILE Case No.
LITIGATION 18-md-02843-VC-JSC

This document relates to:
ALL ACTIONS

CONFIDENTIAL UNDER THE PROTECTIVE ORDER
ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)
CORPORATE REPRESENTATIVE - ALLISON HENDRIX
(Reported Remotely via Video & Web Videoconference)
Palo Alto, California (Deponent's location)
Thursday, May 5, 2022
Volume I

STENOGRAPHICALLY REPORTED BY:
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JOB NO. 5210138
PAGES 1 - 347

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This document relates to:
ALL ACTIONS

DEPOSITION OF ALLISON HENDRIX, taken on
behalf of the Plaintiffs, with the deponent located
in Palo Alto, California, commencing at
9:16 a.m., Thursday, May 5, 2022, remotely reported
via Video & Web videoconference before
REBECCA L. ROMANO, a Certified Shorthand Reporter,
Certified Court Reporter, Registered Professional
Reporter.

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ALSO PRESENT:

Ian Chen, Associate General Counsel, Facebook
Inc.

John Macdonell, Videographer

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I N D E X

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D E S C R I P T I O N

Exhibit 330	Plaintiff's Second Amended	15
	Notice of Deposition of	
	Defendant Facebook, Inc.	
	Pursuant to Federal Rule of	
	Civil Procedure 30(b)(6);	
Exhibit 331	newsroom - Better Controls	169
	for Managing Your Content,	
	FB-CA-MDL-00005751 -	
	FB-CA-MDL-00005758.	

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1 Palo Alto, California; May 5, 2022

2 9:16 a.m.

3 ---o0o---

4

5 THE VIDEOGRAPHER: Okay. We're on the 09:16:25

6 record. It's 9:16 a.m., Pacific Time, on

7 May 5th, 2022. This is the deposition of

8 Allison Hendrix.

9 We're here in the matter In Re:

10 Facebook, Inc. Consumer Privacy User Profile 09:16:39

11 Litigation.

12 I'm John Macdonell, the videographer with

13 Veritext.

14 Before the reporter swears the witness,

15 would counsel please identify themselves, beginning 09:16:47

16 with the noticing attorney, please.

17 MR. KO: Good morning, everyone.

18 David Ko of Keller Rohrbach on behalf of

19 plaintiffs.

20 And with me here today is -- are 09:16:59

21 Cari Laufenberg, Derek Loeser, Emma Wright and

22 Adele Daniele, I believe, also of Keller-Rohrbach.

23 MR. BLUME: And good morning. This is

24 Rob Blume from Gibson Dunn on behalf of

25 Ms. Ali Hendrix and Facebook. 09:17:17

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1 And on the video is -- with me in the 09:17:22
2 room is Prachi Mistry, Kelly Herbert and Ian Chen
3 from Facebook and Gibson Dunn. And on the video, I
4 think, is Joe LoPresti, Dana Zolle Hauser,
5 Andrew Kuntz and -- I think that's all we have. 09:17:43
6 SPECIAL MASTER GARRIE: This is
7 Special Master Garrie. I'm here on behalf of the
8 Court.
9 MR. BLUME: And --
10 MR. KO: We have a big crowd for you, 09:18:01
11 Ms. Hendrix.
12 MR. BLUME: And the part -- as -- as we
13 spoke before we went on the record, the
14 transcript -- we seek to have the transcript marked
15 "Confidential" under the existing protective 09:18:09
16 orders.
17 THE COURT REPORTER: If you could raise
18 your right hand for me, please.
19 THE DEPONENT: (Complies.)
20 THE COURT REPORTER: You do solemnly 09:18:13
21 state, under penalty of perjury, that the testimony
22 you are about to give in this deposition shall be
23 the truth, the whole truth and nothing but the
24 truth?
25 THE DEPONENT: I do. 09:18:13

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1 ALLISON HENDRIX, 09:18:34
2 having been administered an oath, was examined and
3 testified as follows:
4

5 EXAMINATION 09:18:34
6 BY MR. KO:

7 Q. Good morning, Ms. Hendrix.

8 A. Good morning.

9 Q. We met off the record, but my name is
10 David Ko of Keller Rohrback and I'll be taking your 09:18:47
11 deposition today.

12 I believe you have taken your dep- -- I
13 believe you have taken a deposition before; is that
14 correct?

15 A. Yes. 09:18:58

16 Q. So you know how this goes a bit, but let
17 me remind you of a few of the ground rules that are
18 most important to me.

19 The most important task here today is to
20 create a clean record and for Rebecca, the 09:19:10
21 court reporter, to transcribe everything that we
22 say. So please wait until I finish my question
23 before moving on to your answer, even though you
24 think you know what the answer is. And I will
25 likewise wait until you finish your response before 09:19:21

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1 moving on to my next question. 09:19:24

2 Does that sound fair?

3 A. Yes.

4 Q. And to the extent I ask a yes-or-no

5 question and your response is, in fact, yes or no, 09:19:32

6 it is important for the record to answer in that

7 manner rather than shaking your head or giving an

8 inaudible response.

9 Does that sound fair?

10 A. Yes. 09:19:47

11 Q. From time to time your counsel,

12 Mr. Blume, may object to some of my questioning.

13 But unless he clearly instructs you not to answer,

14 I'd ask that you respond to my question

15 nonetheless. 09:19:59

16 Does that sound fair?

17 A. Yes.

18 Q. And we'll be here for a few hours. It

19 won't be an entire long day of seven -- seven or

20 eight hours, like a normal deposition, but it will 09:20:10

21 be a pretty long day. So if at any time you need a

22 break, just please let me know and I will do my

23 best to accommodate.

24 Okay?

25 A. Yes. 09:20:20

1 Q. Ms. Hendrix -- by the way, would you 09:20:25
2 prefer Ms. Hendrix, Allison?
3 How would you like to be addressed during
4 this deposition?
5 A. Ms. Hendrix is fine. 09:20:34
6 Q. Okay. Great.
7 Ms. Hendrix, is there anything that you
8 can think of that will prevent you from testifying
9 honestly or truthfully today?
10 A. No. 09:20:43
11 Q. Great.
12 Let me start by showing you the notice
13 that governs your testimony today.
14 So let's start with the 30(b)(6) notice
15 that I assume you have seen. But we'll talk about 09:20:58
16 that here in a second.
17 I can see you're a little confused. The
18 exhibits will be shown to you both on this platform
19 that you can access or I believe if you would like
20 we can share it on the screen for you. 09:21:18
21 Whatever you prefer?
22 A. I wasn't sure if the machine next to me
23 was -- was what I was going to be viewing it on.
24 And it looked like it's -- you might need to log
25 back in to it. 09:21:38

1 (Discussion off the stenographic record.) 09:21:40
2 MR. KO: So while that's being fired up,
3 I will note for the record that this exhibit will
4 be Exhibit 330.
5 (Exhibit 330 was marked for 09:22:03
6 identification by the court reporter and is
7 attached hereto.)
8 MR. KO: And it will be a copy of the
9 30(b)(6) notice, dated March 1st, 2022.
10 Q. (By Mr. Ko) Let me know when you have 09:22:15
11 that up.
12 A. The folder currently appears to be empty,
13 but maybe I need to do something.
14 MR. KO: Yeah. Just give -- give it a
15 little time. It should -- 09:22:28
16 MR. BLUME: Just click on that right
17 there.
18 THE DEPONENT: Okay.
19 MR. KO: Yeah, you can -- you can
20 refresh. 09:22:33
21 THE DEPONENT: Yeah. I got it up.
22 MR. KO: And while you do that, just
23 so -- great.
24 While you do that, so the record is
25 clear, that exact title of this document is 09:22:37

1 Plaintiffs Second Amended Notice of Deposition of 09:22:39

2 Defendant Facebook, Pursuant to FRCP 30(b)(6).

3 Q. (By Mr. Ko) Do you see that document in
4 front of you now, Ms. Hendrix?

5 A. I do. 09:22:54

6 Q. Have you seen this notice before?

7 A. I believe so, yes.

8 Q. You are testifying on certain topics in
9 this notice, correct?

10 A. Correct. 09:23:04

11 Q. And let me turn your attention to
12 page 11, section III of this notice.

13 A. I'm not seeing a section III on what
14 appears to be page 11.

15 Q. Well, go ahead to page 11 of the notice. 09:23:32

16 And I -- I don't know what PDF you may have up, but
17 I'm talking about page 11 of the notice itself that
18 appears at the bottom of the -- the document.

19 A. I'm on what seems to be page 11 and it
20 starts with "Matters For Testimony." 09:23:46

21 Q. Right.

22 And so by section III, I'm just simply
23 referring to the -- the Roman numeral III that
24 precedes --

25 A. Oh, okay. 09:23:56

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1 Q. -- "Matters For Testimony." 09:23:57

2 A. All right. I'm there.

3 Q. So do you see -- okay. Great.

4 Do you see under "Matters For Testimony"

5 a topic 1? 09:24:06

6 A. Yes.

7 Q. Accurate to state that you are testifying

8 on topic 1 of this notice?

9 A. Yes.

10 Q. Turn with me to the next page, to 09:24:24

11 topic 3.

12 Is it accurate to state that you are

13 testifying on topic 3 of this notice?

14 A. Yes.

15 Q. And I'm sorry to go a little out of 09:24:41

16 order, but now go back to -- to page 11, topic 2.

17 Is it accurate to state that you are

18 testifying on some aspects of topic 2 of this

19 notice?

20 A. Yes. 09:24:55

21 Q. In particular, you are testifying as to

22 topics 2b and 2d, except as those topics relate to

23 targeted advertising, correct?

24 A. Yes.

25 Q. Would you agree with me that topics 2b 09:25:11

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1 and 2d have relation -- have some relationship to 09:25:14
2 topic 3?
3 MR. BLUME: Objection. Form.
4 THE DEPONENT: What do you mean?
5 Q. (By Mr. Ko) Do you understand what the 09:25:28
6 word "related" means?
7 MR. BLUME: Objection. Form.
8 THE DEPONENT: I know what the word
9 "related" means. And if you want to repeat your
10 question, I can slowly look at this and see. 09:25:41
11 Q. (By Mr. Ko) Sure.
12 Are -- are topics 2b and 2d related to
13 topic 3?
14 MR. BLUME: Objection. Form.
15 THE DEPONENT: So you're asking me how 09:26:06
16 topics 2b and 2d are related to 2, 3?
17 Q. (By Mr. Ko) No. I'm not -- first of
18 all, I'm not asking you how. And I'm not -- I
19 didn't talk about 2, 3.
20 I said are topics 2b and 2d related to 09:26:23
21 topic 3?
22 MR. BLUME: Objection. Form.
23 MR. KO: Mr. Blume, in the past, just so
24 you -- for your edification, we have had a standing
25 objection or we've stipulated to a standing 09:26:38

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1 objection as to form. And I'm happy to do that 09:26:41
2 here, to the extent those objections are -- are
3 form objections.

4 MR. BLUME: Well, I don't -- I don't
5 think we can have a -- 09:26:52

6 MR. KO: If you don't want to stipulate,
7 that's fine.

8 MR. BLUME: I -- yeah, I'd prefer not a
9 standing objection. I just -- I'm not sure --
10 I'm -- I'm not even sure what you mean, but 09:26:57
11 that's my -- my objection is to the form of the
12 question.

13 THE DEPONENT: Yeah, I -- I can't --
14 I'm -- I'm going to decline to answer that because
15 like we've -- we've never sold data. So it's 09:27:07
16 like -- I'm not going to wrap all of these
17 statements in together and say that they're
18 related. I'm sorry.

19 Q. (By Mr. Ko) Okay. Is topics -- are
20 aspects of topic 2b and 2d -- and this is not a 09:27:22
21 trick question. This is just a basic question.

22 Are topic -- aspects of topic 2b and 2d
23 related in any way to topic 3?

24 MR. BLUME: Objection.

25 THE DEPONENT: What do you mean by 09:28:04

1 "related"? 09:28:05

2 Maybe you can help me.

3 Q. (By Mr. Ko) I'm -- I'm not the Webster
4 dictionary, but I have a very common understanding
5 of what the word "related" means. 09:28:14

6 Do you have an understanding of what the
7 word "related" means because earlier when I asked
8 you --

9 A. I'd love to understand -- I'd -- I'd love
10 to understand what your common understanding is. 09:28:20

11 Q. Is there any relation --

12 A. That could help me answer this question.

13 Q. So your counsel designated you, and you
14 consented to testify as to topics 2b and 2d, and
15 you answered yes to that question, correct? 09:28:40

16 A. I can testify with respect to the topics
17 that I already acknowledged that I'm here to
18 testify.

19 Q. So you -- I assume you have an
20 understanding of what topics 2b and 2d encompass; 09:28:53
21 is that correct?

22 A. Yes.

23 Q. If the Court or the jury wanted to know
24 whether or not Ms. Hendrix believed that topics 2b
25 and 2d were in any way, shape or form related to 09:29:11

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1 topics 3, how would you respond to that question? 09:29:14

2 MR. BLUME: Objection. Speculation.

3 Vague.

4 THE DEPONENT: So 2b is "Identification,
5 by category, of the type of Data or Information to 09:29:27

6 which Facebook sold" -- again, we've never done

7 that -- "made accessible, made available, or

8 allowed Third Parties to use to target Users,"

9 which I'm not here to testify to, on ads, "The
10 types" -- well, let's go to b. 09:29:45

11 "The purposes for which such Data or
12 Information was shared or made" available -- "made
13 accessible, or permitted Third Parties to target,"
14 the later of which I'm not here to speak to.

15 "How Facebook ensured Third Parties' Use 09:29:57
16 of such Data or Information was limited to the Use
17 Case."

18 Then when we go to topic 3, "An overview
19 of the processes of developing Privacy or App
20 Settings or other controls made available to Users 09:30:11

21 to prevent or limit their Data or Information from
22 being accessed by Third Parties, including the
23 dates during which each such Privacy or App Setting
24 or other controls were available."

25 And I'll go ahead and help us all by not 09:30:27

1 continuing to read it. 09:30:29

2 So topic 2 does speak to the platform.

3 And topic 3 speaks to how people could use settings

4 to control information through the platform, so

5 they are somewhat related. 09:30:45

6 Q. (By Mr. Ko) Okay. Thank you.

7 In particular, topic 3c, and which you

8 indicated earlier that you were testifying on

9 behalf of Facebook for, indicates that you will be

10 providing testimony as to Facebook's monitoring and 09:31:03

11 enforcement of contractual terms with third

12 parties.

13 Do you see that -- of course, it has some

14 extra language in there -- but do you see topic 3c?

15 A. I do. 09:31:14

16 Q. Do you feel that it -- that has any

17 relationship with topic 2d, which asks for how

18 Facebook ensured third parties' use of such data or

19 information was limited to the use case?

20 MR. BLUME: Objection. Form. 09:31:26

21 THE DEPONENT: Those topics are similar.

22 Q. (By Mr. Ko) Great. Thank you.

23 I believe you're also tasked -- turn --

24 turn to page 13 of the notice and, in particular,

25 topic 6. 09:31:54

1 A. I just read it. 09:32:05

2 Q. Is it accurate to state that you are also
3 testifying as to some aspects of topic 6 of this
4 notice?

5 MR. BLUME: Objection. She's not -- 09:32:19
6 we're not presenting her as a witness on topic 6.
7 So, no, I can answer that.

8 MR. KO: That's con- -- that's contrary,
9 Mr. Blume, to your own email that indicated that
10 Ms. Hendrix is testifying as to the portions of 09:32:30
11 topics --

12 MR. BLUME: Right. Yeah, you're right.
13 I'm sorry. My -- you're absolutely right, Mr. Ko.
14 You're -- that's correct. My -- I'm sorry.

15 Q. (By Mr. Ko) Let me restate the question. 09:32:40

16 A. I am prepared to -- I'm prepared to --

17 Q. Let me -- sorry. Sorry, Ms. Hendrix. I
18 apologize. Let me just -- so we have a clean
19 record, let me just ask it again.

20 Is it accurate to state that you are 09:32:49
21 testifying as to some aspects of topic 6 of this
22 notice?

23 A. Yes.

24 Q. In particular, you are testifying as to
25 "The development of Friend Sharing" and "the 09:33:01

1 communication of this technology to users, 09:33:09
2 including the drafting of Facebook's Terms of
3 Service, SRR and Data and Privacy Policies" related
4 to "Friend sharing"? And I added a "to" there.

5 But is that accurate to state, that you 09:33:24
6 are testifying as to that portion of topic 6?

7 A. The first part, no. But I am here to
8 talk about the -- like the drafting of Facebook's
9 terms of service, SRR and data and privacy policies
10 related to friend sharing. 09:33:40

11 Q. Great. Thank you. That's helpful.

12 So it's accurate to state that you are
13 testifying on behalf of Facebook today as to the
14 drafting of Facebook's terms and service, SRR, and
15 data and privacy policies related to friend 09:33:52
16 sharing, correct?

17 A. Yes.

18 Q. And for all of these topics that we just
19 went through, which is -- which are topic --
20 topics 1, portions of 2, including 2b and 2d, 09:34:06
21 topic 3 and portions of topic 6, you understand
22 that you are testifying on behalf of Facebook,
23 correct?

24 A. Correct.

25 Q. Do you understand that you are not 09:34:22

1 A. I understand. 09:35:36

2 Q. Ms. Hendrix, what did you do to prepare
3 for this deposition?

4 A. I -- I reviewed a number of documents. I
5 met with fellow teammates. I met with my counsel. 09:35:52
6 I'm --

7 Q. When you say --

8 A. Would you like me to go into detail?

9 Q. I can ask some follow-up questions.
10 Thank you. 09:36:10

11 When you say "teammates," what do you
12 mean by that?

13 A. I -- I met with individual employees at
14 Meta Facebook so that I could prepare for these
15 topics. 09:36:28

16 Q. And by the way, thank you for reminding
17 me of Facebook's new corporate name. I just want
18 to make sure that the record is clear.

19 Your testimony today is on behalf of both
20 Meta and Facebook; is that fair? 09:36:42

21 A. Yes.

22 Q. And so to the extent I say "Facebook,"
23 that will be synonymous with Meta. And to the
24 extent I say "Meta," that will be synonymous with
25 Facebook; is that okay? 09:36:56

1 A. Yes. 09:36:57

2 Q. And your corporate testimony, pursuant to
3 Rule 30(b)(6), will also be on behalf of Meta and
4 Facebook, correct?

5 A. Yes. 09:37:07

6 Q. So the individuals and employees that you
7 spoke with at Facebook, what groups or departments
8 were they a part of?

9 MR. BLUME: Objection. Form.

10 THE DEPONENT: I met with -- let's -- it 09:37:31
11 might be easier if I just state the individuals'
12 names.

13 Q. (By Mr. Ko) Sure.

14 What -- how many -- approximately how
15 many individuals did you meet with that were -- and 09:37:44
16 this is just with respect to the Facebook employees
17 that you described.

18 A. So setting aside our lawyers, I met with
19 Simon Cross, Eddie O'Neil, Rob Sherman. Pratiti --
20 her name is hard to pronounce. It starts with a P. 09:38:05

21 I -- I think -- oh, and Kristy Cook. I
22 think those -- I think that's a comprehensive list
23 of the people that I met with over videoconference.

24 Q. And with respect to Kristy Cook and
25 Pratiti -- 09:38:42

1 A. Oh, I forgot. Ed Palmieri. 09:38:42

2 Edward Palmieri.

3 Q. So I count six individuals that you met
4 with in preparation for this deposition -- at least
5 six individuals at Facebook, setting aside your 09:38:58
6 lawyers; is that correct?

7 A. Yes. Those are -- those are the
8 teammates that I sought additional information
9 from.

10 Q. And with respect to Pratiti and Kristy, 09:39:11
11 what departments at Facebook are they in?

12 A. I'm going to refer to my notes here.
13 She -- so Pratiti is the functional head
14 for user research. And Kristy is a member of
15 the -- I think present day, she's on the global 09:39:43
16 operations team that's led by John DeVine.

17 Q. When you say presently that's her role,
18 what was her role prior to that?

19 MR. BLUME: Objection. Form.

20 THE DEPONENT: Her role hasn't changed, 09:40:07
21 but there was -- but her team was moved into a
22 different org recently. And I can't recall the
23 name of exactly which org she had been sitting in
24 before. But her day-to-day responsibilities, as I
25 understand them, haven't -- haven't changed. 09:40:27

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1 Q. (By Mr. Ko) And -- and you just 09:40:30
2 indicated that you were looking at some of your
3 notes.

4 So I assume you brought some notes with
5 you to this deposition today? 09:40:37

6 A. Yes, I -- I did.

7 Q. Are they notes that you created yourself?

8 A. Yes.

9 Q. And those are notes that you've obviously
10 referred to once and that you intend to refer to 09:40:51
11 throughout this deposition, I assume?

12 A. If needed. I mean, I probably spent 30,
13 40 hours like preparing, just -- just meeting with
14 counsel, let alone all of time reviewing all the
15 documents. So as I'm sure you can imagine, this is 09:41:09
16 a very lengthy period of time so I felt comfortable
17 that I wanted to be helpful to you and be able to
18 be responsive.

19 So yes, I -- I asked if I could create
20 notes and -- and I created them. 09:41:25

21 MR. KO: I appreciate that.

22 Counsel Blume, we would request a copy
23 and a version of these notes following this
24 deposition.

25 MR. BLUME: Noted. 09:41:41

1 Q. (By Mr. Ko) Now, earlier you had 09:41:46
2 asked -- or you had indicated that there were some
3 documents that you reviewed in connection with your
4 preparation.

5 Did those documents consist of documents 09:42:00
6 that you understood were provided by plaintiffs'
7 counsel in connection with this deposition?

8 A. I did receive documents that you guys
9 sent over a handful of days ago, I think.

10 Q. And did you review all those documents? 09:42:23

11 A. I did look through. I didn't read every
12 word, but I did review them all.

13 Q. And other than that tranche of documents,
14 I assume you reviewed other additional documents in
15 connection with this -- in connection with 09:42:38
16 preparing for this deposition?

17 A. Yes.

18 Q. Okay. And can you describe -- tell me
19 what those documents consisted of?

20 A. I probably won't be comprehensive, but 09:42:55
21 I'll do my best.

22 So it's like newsroom posts, tasks,
23 emails. I believe the documents that we've shared
24 with you, which -- and then transcripts from prior
25 testimony, like -- yeah, I -- I -- I don't know if 09:43:14

1 you want me to go further, but it was, you know, a 09:43:26
2 lot of materials.

3 Q. No, that's great. I was just trying to
4 get a general understanding of the types and
5 categories of documents you reviewed, and so that 09:43:34
6 was helpful.

7 When you said that there were documents
8 that "we've shared with you," do you mean to talk
9 about the documents that Facebook has produced in
10 connection with discovery in this case or are you 09:43:50
11 talking about some other set of documents that were
12 shared?

13 A. I believe these are the documents that
14 we've produced to you in connection with my
15 testimony. 09:44:01

16 Q. Okay. So you believe that there was a
17 specific set of documents that were provided to us
18 in connection with this testimony?

19 MR. BLUME: And -- and I'll -- I'll
20 object. To the extent that -- that your 09:44:13
21 understanding of what was produced and when and to
22 whom came from discussions with counsel, that you
23 should not respond to that question.

24 Q. (By Mr. Ko) Are you going to follow your
25 counsel's instruction? 09:44:35

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1 Q. (By Mr. Ko) And with -- 09:46:00
2 A. -- review other documents.
3 Q. Right. And I was talking about this --
4 this -- that second latter category.
5 Apologies if I was unclear. 09:46:07
6 So --
7 A. Well --
8 Q. -- in addition --
9 A. -- the third bucket is my notes.
10 Q. Okay. Great. Thank you for that 09:46:16
11 clarification.
12 So there -- there -- to be clear, there
13 is a set of documents that you reviewed in
14 preparation for this deposition, outside of the
15 documents we provided to you, correct? 09:46:33
16 A. Yes.
17 MR. KO: Okay. Counsel Blume --
18 THE DEPONENT: I should -- I --
19 MR. BLUME: Yes.
20 MR. KO: Go ahead. 09:46:47
21 MR. BLUME: Go ahead.
22 THE DEPONENT: Well, I -- I -- I had a
23 deposition in another matter very, very recently.
24 And so in terms of scope and me really wanting to
25 make sure that I'm being fully responsive, 09:47:01

1 you know, over the last couple of months I've had 09:47:05
2 to review documents that might have been out of
3 scope. But -- but that would -- I -- I don't know.

4 Like, I just want to make sure -- like
5 I -- I did review documents not too long ago for 09:47:17
6 another case, but I don't know if they're relevant
7 to this.

8 MR. KO: Understood. Thank you for that
9 explanation.

10 So Counsel Blume, we would request, 09:47:31
11 consistent with both the schedule and our previous
12 request, that you produce to us all the documents
13 that Ms. Hendrix reviewed in connection with
14 preparing for this deposition today.

15 And I would also note that we reserve the 09:47:48
16 right to reopen this deposition after you produce
17 those documents to us.

18 MR. BLUME: All -- all -- all of those
19 documents have been produced in discovery. You
20 already have every document that she looked at in 09:48:01
21 preparation for this 30(b)(6) witness. And so
22 pursuant to discovery protocol, those do not have
23 to be produced again, so -- but you have them all.

24 MR. KO: Thank you for that explanation.

25 And our view would be that we would like 09:48:16

1 to know the specific documents and not just a 09:48:17
2 reference to the entire discovery production.
3 MR. BLUME: And that is we --
4 MR. KO: So we would like to --
5 MR. BLUME: -- we would -- sorry. Go 09:48:24
6 ahead.
7 MR. KO: Yeah. So we -- just to clarify,
8 we would renew our request, consistent with this
9 notice and consistent with our prior request and
10 meet-and-confers, that you prepare and produce this 09:48:38
11 material with a specific reference to which
12 documents were reviewed by Ms. Hendrix.
13 MR. BLUME: And we would object. It's
14 work product. Engages privileged conversations.
15 And pursuant to the discovery protocol, not -- 09:48:51
16 we're not required to reproduce documents for
17 purposes of depositions that have already been
18 produced in discovery. Every document that she
19 reviewed that -- in preparation for this 30(b)(6)
20 deposition, has been previously produced. 09:49:08
21 THE DEPONENT: And I can testify --
22 MR. BLUME: Wait for a question.
23 THE DEPONENT: Oh, sorry.
24 Q. (By Mr. Ko) Sorry.
25 Ms. Hendrix, what were you going to say? 09:49:19

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1 MR. KO: So if -- if you don't mind, when 09:50:24
2 you object or note anything for the record, if you
3 could kind of lean over and speak into the
4 microphone, that would helpful.

5 Thank you. 09:50:30

6 MR. BLUME: How is that; is that better?

7 MR. KO: Yeah, I think so. Thanks.

8 Q. (By Mr. Ko) And when was that
9 deposition, Ms. Hendrix?

10 A. I don't remember the precise date. 09:50:45

11 Q. Approximately when was that deposition,
12 Ms. Hendrix?

13 A. It was in June.

14 Q. June of 2021?

15 A. 2022. 09:51:03

16 MR. BLUME: We're only in May.

17 MR. KO: We're in May. Sorry.

18 THE DEPONENT: It was in -- oh, shit.

19 Excuse my language.

20 MR. BLUME: That would be amazing. 09:51:11

21 THE DEPONENT: Like I'm going backwards.
22 Sorry.

23 Last month. April.

24 Q. (By Mr. Ko) Okay. So you -- you

25 testified in the D.C. attorney general action in 09:51:20

1 April of 2022, correct? 09:51:23

2 A. Yes.

3 Sorry. It looks like I'm having --

4 Q. No worries.

5 A. -- morning fatigue. 09:51:30

6 Q. Well, you know, time does generally fly
7 these days. So, yeah, you were just getting ahead
8 of yourself a little bit. It's okay.

9 So with respect to some of these
10 topics -- and as we discussed, because these topics 09:51:46
11 relate to various policies and contracts that were
12 applicable to users and third parties -- I assume
13 you have reviewed some of these policies and
14 contracts; is that fair to say?

15 A. Yes. 09:52:07

16 Q. And let me be a little more specific.

17 Are -- are you familiar with the
18 statement of rights and responsibilities or SRRs?

19 A. Yes.

20 Q. What are they? 09:52:20

21 A. It's not two separate things. Like the
22 SRR is how we abbreviate the statement of rights
23 and responsibilities and it is the terms of -- of
24 service for using Facebook.

25 Q. And throughout today, I -- I will be 09:52:40

1 using the acronym SRR. 09:52:42

2 And is it okay, for purposes of the
3 deposition, that, as you note, when I say SRR, or
4 when you say SRR, we can assume that refers to the
5 statement of rights and responsibilities; is that 09:52:55
6 fair?

7 A. Yes. If you would like to refer to the
8 SRR -- that wasn't the name of it initially. But
9 I'm happy to know and agree that SRR means just
10 terms of service, generally. 09:53:09

11 Q. And -- and we'll get to the various
12 iterations and names in a moment.

13 But before we do that, let -- let me ask
14 you about Facebook's data use policy. And I know
15 that it had different names as well. 09:53:21

16 But are you familiar with Facebook's data
17 use policy?

18 A. I am.

19 Q. And what is Facebook's -- what is -- what
20 is that? 09:53:31

21 A. Facebook's data use policy -- which has
22 also been referred to as our privacy policy -- it
23 tells people what it is that we collect and how
24 their information can be used and -- this
25 high-level response there. 09:53:45

1 Q. And with respect -- to back up a little 09:53:52
2 bit. I apologize -- on the SRR, you had indicated
3 that it reflected the terms of service for using
4 Facebook.

5 And so would that be terms of service for 09:54:02
6 the Facebook user, I assume?

7 A. Yes. If you sign up for Facebook, you
8 agree that you have read the data use policy and
9 you agree to the terms of service.

10 Q. Now, I assume you are also familiar with 09:54:26
11 Facebook's platform policy; is that correct?

12 A. Yes.

13 Q. What is that?

14 A. It's no longer referred to as the
15 Facebook platform policy. It's -- we have platform 09:54:39
16 terms and developer policies. And those are the
17 terms and policies that govern third -- developers'
18 use of our platform technologies.

19 Q. And when did that name change occur -- or
20 when did that change occur? 09:54:57

21 MR. BLUME: Objection. Form.

22 THE DEPONENT: It was in -- we announced
23 the change in mid 2020, and the terms went into
24 effect in -- August 31st of that same year.

25 Q. (By Mr. Ko) So up until the middle of 09:55:19

1 2020, Facebook had something called a platform 09:55:21
2 policy; is that correct?

3 A. Yes. We had the Facebook platform
4 policies.

5 Sitting here today, I know that there's 09:55:30
6 been another name, like developer policies. But
7 they are the same documents in terms of what I
8 described the document to be earlier.

9 MR. BLUME: And, Mr. Ko, my -- I'm still
10 here. My apologies. I just mistakenly unplugged 09:55:45
11 everybody. So I'm sitting around -- I'm right
12 here, but I just -- I'm getting back on online. No
13 need to wait, or you can, if you like.

14 MR. KO: Got it. Thank you. Appreciate
15 that. 09:56:00

16 It was a like voice of God because I
17 didn't see your face.

18 Q. (By Mr. Ko) Now, with respect to the
19 platform policy, can you describe at a high level,
20 just as you did with respect to the SRR and the -- 09:56:11
21 the data use policy, what Facebook's platform
22 policy attempted to do?

23 A. Facebook's platform terms and developer
24 policies are our agreement with developers, with
25 respect to how they will use the platform. And 09:56:30

1 there's a number of -- it's -- it's the rules with 09:56:36
2 respect to using the technology, to the extent the
3 developer chooses to use it. It's not always
4 relevant.

5 Q. And that policy and contract is between 09:56:51
6 Facebook and the -- the third-party developer,
7 correct?

8 A. Yes. The developers -- when they create
9 and register as a developer on our platform, they
10 agree to adhere to the platform terms and -- and 09:57:04
11 developer policies.

12 Q. And was the Facebook user -- or was a
13 Facebook user -- a party to that policy or
14 contract?

15 A. To the extent the Facebook user, who has 09:57:21
16 agreed to our terms of service chooses to register
17 as a developer, then yes.

18 Q. So only if the user was a developer would
19 that policy apply, correct?

20 A. What do you mean by "apply"? 09:57:41

21 Q. Well, you -- you answered the question --
22 well, let me ask it this way.

23 As a general matter, the Facebook
24 platform policy governed the relationship between a
25 Facebook developer and Facebook, correct? 09:57:55

1 A. That is our agreement with developers who 09:57:59
2 use our platform, yes.

3 Q. And it wasn't a contract that governed
4 Facebook's relationship with its users because
5 those were reflected in the SRRs and DUPs, correct? 09:58:12

6 A. To the extent a user is also a developer,
7 they agree to the platform terms and developer
8 policies, in connection with their use of the
9 platform.

10 Q. Outside of that carve-out, Facebook 09:58:37
11 users' interactions with the Facebook platform and
12 on Facebook were governed by the SRRs and DUPs,
13 correct?

14 MR. BLUME: Objection. Form.

15 THE DEPONENT: If a user does not use -- 09:58:57
16 does not develop apps on our platform, then they're
17 only subject to the terms that are relevant to
18 them.

19 Q. (By Mr. Ko) And those terms would
20 be the -- reflected in the SRRs and DUPs, correct? 09:59:13

21 A. If they don't use any of our other
22 products, because there's other terms of -- there's
23 other terms of use, depending on what you choose,
24 like depending on your relationship with us.

25 But if -- if you just go and just sign up 09:59:30

1 for Facebook, all you want to do is use Facebook, 09:59:32
2 then the terms of service and our data use policy
3 would be the two primary documents that you agree
4 that you have read and will adhere to.

5 Q. Thank you. Thank you. 09:59:48

6 And -- and it's fair to say that the vast
7 majority of Facebook users would fall under that
8 umbrella, correct?

9 MR. BLUME: Objection. Form.

10 THE DEPONENT: Sitting here today, I -- I 10:00:03
11 don't -- I'm not -- I don't know the answer to
12 that.

13 Q. (By Mr. Ko) Do you have a general
14 understanding of how many users were also
15 developers on the Facebook platform, relative to 10:00:17
16 users that did not develop on the Facebook
17 platform?

18 A. That is not a data point that I know of
19 today.

20 Q. And separate and apart from a specific or 10:00:38
21 precise data point, do you have any understanding
22 of the total number of users in the relevant time
23 period that used Facebook but did not also develop
24 on the platform, such that they were subject to the
25 platform policy and subsequent iterations of that 10:01:01

1 platform policy? 10:01:04

2 MR. BLUME: Object -- objection.

3 And just to be clear, what topic are we

4 talking about, Mr. Ko?

5 MR. KO: All of them. 10:01:12

6 MR. BLUME: That's beyond the scope.

7 Objection.

8 MR. KO: You can answer, unless Mr. Blume

9 decides to instruct you not to answer.

10 MR. BLUME: If you know, you can answer. 10:01:23

11 THE DEPONENT: I've already told Mr. Ko

12 that I don't know. I can continue to repeat

13 myself.

14 I'm not prepared to speak to that. It's

15 not on the topic. 10:01:33

16 Q. (By Mr. Ko) That's fine.

17 And I was just trying to get -- to be

18 fair, I -- I was just trying to get a general

19 understanding.

20 I -- I heard your response as saying that 10:01:40

21 you didn't have a specific data point. And so I

22 was just curious whether or not you were aware,

23 because you seem to understand that there was a

24 distinction between users who develop and users who

25 do not. And so the -- the natural follow-up 10:01:53

1 question was whether or not you knew the population 10:01:55
2 of the former relative to the latter.

3 And I hear your response to say that you
4 don't know, and you don't have any idea; is that
5 correct? 10:02:04

6 A. I did --

7 MR. BLUME: Objection.

8 THE DEPONENT: -- not prepare to speak to
9 that today.

10 Q. (By Mr. Ko) I want to show you -- 10:02:14
11 because you had indicated before that there were --
12 and it's also somewhat confusing to me -- and there
13 are a lot of policies to walk through, so I want to
14 make sure that we are on the same page with respect
15 to these policies. 10:02:30

16 I'm going to share my screen. And this
17 is not an exhibit, but this is just my
18 understanding of these relevant policies.

19 Do you see this in front of you,
20 Ms. Hendrix? 10:02:51

21 MR. BLUME: Is -- is this a produced
22 document?

23 MR. KO: No. Like I said, this is
24 something that I created.

25 Q. (By Mr. Ko) Do you see this in front of 10:03:02

1 you, Ms. Hendrix? 10:03:03

2 A. Yes, I can see what you're displaying on
3 the screen.

4 Q. Thank you.

5 And it's not -- again, I -- this is just 10:03:14
6 to help orient ourselves and to help me understand
7 what you are here to testify about.

8 So with respect to the statement of
9 rights and responsibilities, or the SRR, as you
10 described earlier, there were various names that 10:03:29
11 were associated with the SRR; is that fair to say?

12 A. I'm only aware of two; terms of service
13 and statement of rights and responsibilities.

14 Q. Okay. That's helpful.

15 So the terms of service -- I believe the 10:03:46
16 terms of service is what this is called now,
17 correct?

18 MR. BLUME: Objection. Form.

19 THE DEPONENT: Yes, that's my
20 understanding. 10:04:02

21 Q. (By Mr. Ko) And it's my understanding --

22 A. And I'm going to ask you --

23 Q. Go ahead.

24 A. There's a lot of -- there's a lot
25 documents and materials. And so, like, you -- I 10:04:11

1 may need to refer back to -- to them because 10:04:13
2 there's a lot of information that I had prepared.
3 But go ahead.
4 Q. Yeah. I -- I understand. There's --
5 there's a lot -- there's a lot to unpack in these 10:04:23
6 topics, I -- I agree.
7 So this is -- I'm not trying to put you
8 on the spot. I'm trying to -- hopefully, you'll
9 see I'm trying -- I'm trying to help us all,
10 because there are so many names flying around that 10:04:35
11 I want to make sure you and I are on the same page
12 with respect to these things.
13 So as you indicated, the SRR was renamed
14 to the terms of service; is that correct?
15 A. Yes, I believe so. 10:04:58
16 Q. And do you have any understanding of when
17 the SRR was renamed to the terms of service?
18 A. I'd have to look at the documents.
19 Q. Does it refresh your recollection at all,
20 when I put here that in 2018 -- and precisely 10:05:17
21 April 19th, 2018 -- the SRR was renamed to the
22 terms of service?
23 A. I'd rather not rely on your document that
24 I've never seen until just now. Like I want to see
25 the actual documents and the dates that are on 10:05:33

1 them. 10:05:35

2 So I'm sorry, but -- like we can get

3 the -- the terms and policies up and I can go

4 through each of the respective name change and the

5 dates, if that's how you want to use the time 10:05:43

6 today. But I'm not going to rely on your document.

7 Q. Sure. That's fair enough.

8 So I'm going to delete that for you

9 because I'm not trying to present that this is the

10 Bible or that this is a canon that we have to all 10:05:56

11 follow.

12 I was trying to be helpful to both of us.

13 But you -- you acknowledge that the SRR was at some

14 point changed to the terms of service, correct?

15 A. Yes. 10:06:08

16 Q. Okay. And you don't have a recollection

17 of when it actually changed names, right?

18 A. I would need to refresh. I know that I

19 know. I know that I need to go to the documents.

20 And I'm distracted by seeing you guys typing and 10:06:26

21 like changing the text at -- live as we're sitting

22 here.

23 Q. Yeah. Well, the -- I -- I'm -- I

24 apologize for distracting you.

25 But I'm trying to figure out from you, as 10:06:40

1 the corporate designee, who you acknowledged before 10:06:43
2 that you are here to testify as to these policies.

3 I'm curious whether or not you know when it was
4 renamed from the SRR to the terms of service.

5 And your testimony is that you don't 10:06:57
6 know, so I'm just putting a question right here for
7 now.

8 MR. BLUME: Actually, objection. That
9 wasn't her testimony.

10 Her testimony was she wanted to see the 10:07:04
11 document, and she'd be able to do that, as opposed
12 to a memory test.

13 MR. KO: Fair enough.

14 Q. (By Mr. Ko) Without looking at the
15 documents, you don't know when the name changed 10:07:12
16 from SRR to terms of service; is that correct?

17 A. I know that I know. I know that I don't
18 remember without referring to the dates.

19 Q. Got it.

20 And then you said that you are only aware 10:07:28
21 of two names that this user terms of service had
22 over the relevant time period.

23 So the -- here -- and I'm happy to get
24 rid of it -- but it was my understanding that at
25 some point before the SRR, it was identified as 10:07:45

1 terms of use. 10:07:50

2 Does that sound familiar to you at all?

3 A. I'd like to ask my counsel if I can have

4 access to all of these documents. And, again,

5 you're changing the text right here live in front 10:07:58

6 of me. And I think that is highly inappropriate.

7 I'm not a lawyer for the company, but I don't like

8 what you're doing. So I would like my --

9 Q. Well, this --

10 A. I would like to see the documents before 10:08:10

11 you keep having me watch you change the text. Like

12 this is -- this seems highly inappropriate.

13 Q. Okay. Well, I -- I -- it's not. It's no

14 different than if I had you on the stand and I

15 was -- I was creating or writing down on the screen 10:08:24

16 things that were reflective -- what I thought were

17 reflective of your testimony.

18 But I understand that you are

19 uncomfortable with it, and I don't want to make you

20 uncomfortable. So I just -- I'm just trying to get 10:08:37

21 to understand what -- how these various policies

22 were called over the relevant time period. And

23 that was all that was an attempt to do.

24 So let me start -- let me start over.

25 You -- it's your testimony that you're 10:08:51

1 putting words in your mouth. 10:12:28

2 What is the relationship between the
3 platform teams and development teams policy and the
4 Facebook platform policy?

5 MR. BLUME: Objection. Form. 10:12:39

6 THE DEPONENT: Those aren't things.

7 MR. KO: I'm sorry. I didn't get that
8 over your counsel's objection.

9 MR. BLUME: Just repeat your answer.

10 THE DEPONENT: Those aren't things. 10:12:51

11 Q. (By Mr. Ko) When you say "those," what
12 are you referring to?

13 A. You said platform teams, developer teams.
14 I've never said those words today until just now.

15 Q. Okay. Earlier today, when you had said 10:13:03
16 that there was change to the platform policy in
17 mid 2020, what were you referring to?

18 A. In mid 2020, but more importantly,
19 August 31st, 2020, the platform terms and developer
20 policies, which is what is -- what is live today. 10:13:29

21 So developers agree as of, and effective
22 August 31st, 2020, they agree to adhere to the
23 platform terms and the developer policies.

24 Q. And today is there a thing that exists
25 called the Facebook platform policy? 10:13:53

1 Q. (By Mr. Ko) Schedule B -- turning back 10:15:20
2 to schedule B of the notice at Exhibit 330, the
3 schedule asks for a CV of the person Facebook
4 designates to testify on its behalf.

5 Do you see that in paragraph 2? 10:15:41

6 A. I do.

7 Q. Do you have a CV to offer in response to
8 this request?

9 A. Not on -- not on me right now.

10 Q. You have a copy of your CV, I assume? 10:15:57

11 A. I -- I have a résumé on my machine at
12 home, yeah.

13 MR. KO: Counsel Blume, consistent with
14 our request on topic 1, we would ask that you
15 provide us with a copy of Ms. Hendrix's CV. 10:16:13

16 MR. BLUME: Noted.

17 Q. (By Mr. Ko) What is your current
18 position at Facebook?

19 A. I'm a director of privacy and data
20 policy. 10:16:29

21 Q. What are your general roles and -- or
22 what is your -- what are your general
23 responsibilities in connection with that role?

24 A. My team is accountable for the
25 development and management of all terms and 10:16:41

1 policies governing third-party data collection and 10:16:44
2 use, as well as the education, and supporting the
3 enforcement of the platform terms and developer
4 policies.

5 Q. How long have you been in that -- 10:16:57

6 MR. BLUME: And, Mr. Ko, this -- sorry.
7 Just --

8 MR. KO: Go ahead.

9 MR. BLUME: We've gone about an hour. It
10 sounds like you're in a little bit of a transition 10:17:04
11 period. If you finish -- if this -- come to a
12 break shortly, we can take one.

13 MR. KO: Sure.

14 Q. (By Mr. Ko) How long have you been in
15 that role? 10:17:17

16 A. I -- what do you mean?

17 Q. How long have you been the director of
18 the team accountable for the develop- -- the
19 developers and the management of all terms and
20 policies governing third-party data collection and 10:17:38
21 use, as well as the education and supporting --
22 supporting of the enforcement of the platform terms
23 and developer policies?

24 A. I've always -- I've always been involved
25 in that work. When I was promoted to director, I 10:17:57

1 believe it was sometime in 2019. 10:18:02

2 Q. And when you say that you have always
3 been involved in that work, I assume you to -- to
4 mean that you have been involved in this type of
5 work ever since you joined Facebook in, I believe, 10:18:15
6 2008?

7 A. Yes, I've always been involved in that
8 type of work since I joined the company.

9 Q. And is this -- is this called the
10 platform policy team at Facebook or is there some 10:18:32
11 other name that you refer to your team as?

12 A. My team is referred to as the data policy
13 management and enforcement team.

14 Q. Were there any prior iterations of that
15 team name? 10:18:49

16 MR. BLUME: Objection. Form.

17 THE DEPONENT: That -- ever since the
18 team has been created, that has been our name.

19 Q. (By Mr. Ko) So since you joined Facebook
20 in 2008, you have always been part of the data 10:19:08
21 policy management and enforcement team?

22 MR. BLUME: Objection. Form.

23 THE DEPONENT: No.

24 Q. (By Mr. Ko) When you joined Facebook,
25 what team were you a part of? 10:19:21

1 A. I joined the developer operations team. 10:19:26

2 Q. How long were you part of the developer
3 operations team?

4 A. I moved out of the developer operations
5 team onto a team called global policy management. 10:19:46

6 I believe that occurred in around 2010, but I'd
7 need to refer to documents to be certain. But
8 around that time.

9 Q. And after you became part of the global
10 policy management team, were there any other teams 10:20:07

11 that you were involved in or associated with,
12 before you became part of the data policy
13 management and enforcement team?

14 MR. BLUME: Objection. Compound.

15 THE DEPONENT: Could you repeat your 10:20:22
16 question?

17 Q. (By Mr. Ko) Yeah.

18 I'm just trying to get an understanding
19 of the teams that you were involved when -- in
20 between your current role and the global policy 10:20:31

21 management team.

22 Can you describe or identify what those
23 teams were?

24 A. Developer operations is the name of the
25 team when I joined it. They changed the name to 10:20:49

1 platform operations. And now it's back to 10:20:52
2 developer operations, or at least that's how I
3 refer to that team. And that -- and that's it, in
4 terms of the teams.

5 Q. And so the global policy management team, 10:21:05
6 was that in connection with or under the same
7 umbrella as either of the developer operations or
8 platform operations teams?

9 A. Global policy management is a different
10 team than developer operations, also referred to 10:21:19
11 previously as platform operations.

12 Q. So is it fair to say the sum total of
13 the -- the teams that you were involved with are --
14 would be the developer operations team, the
15 platform operations team and the global policy 10:21:39
16 management team?

17 MR. BLUME: Objection. Form.

18 THE DEPONENT: Did you leave out the team
19 that I'm on today?

20 Q. (By Mr. Ko) You said that you were part 10:21:56
21 of the data policy management enforcement team,
22 correct?

23 A. That's the team that I manage today.

24 Q. Is that related to, in any way, with the
25 developer operations team? 10:22:06

1 MR. BLUME: Objection. Form. 10:22:08

2 THE DEPONENT: It's not the same team.

3 Q. (By Mr. Ko) So -- thank you for that
4 clarification.

5 It sounds like there are four teams that 10:22:18

6 you've been a part of throughout your career at

7 Facebook; the data policy management enforcement

8 team, the developer operations team, the platform

9 operations team and the global policy management

10 team; is that correct? 10:22:30

11 MR. BLUME: Objection.

12 THE DEPONENT: I think it's more correct

13 to say I've been on --

14 (Simultaneously speaking.)

15 MR. KO: What's the objection, Mr. Blume? 10:22:35

16 MR. BLUME: Are you talking about team

17 name or the -- the makeup of the teams? Because

18 the personnel of those teams may have changed, the

19 names may not have. But my guess is over the time

20 there have been a lot of different members of the 10:22:47

21 team. It's like, you know -- I wish we were still

22 in the '69 Mets, but we're not, unfortunately.

23 MR. KO: Right. Thank you for that. I'm

24 glad I asked because I -- I apologize if there's

25 any confusion. I'm just talking about the team 10:23:02

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1 names. 10:23:05

2 Q. (By Mr. Ko) I just want to understand
3 the sum total of all the teams that you've ever
4 been a part of, Ms. Hendrix, and the name by which
5 those teams were associated with. 10:23:12

6 So can you describe to the Court all the
7 team names that you have ever been involved with at
8 Facebook?

9 A. I've been a part of three organizations.
10 The first -- the name was developer operations. It 10:23:34
11 became platform operations. I don't know if it --
12 I don't remember if it became DevOps before I
13 switched over to global policy management.

14 And then the third team is the team I'm
15 on today. The privacy and data policy is the 10:23:51
16 ultimate org, but my team is referred to as the
17 data policy management and enforcement team.

18 MR. KO: Okay. Great. Thank you.

19 And if you'd like to take the break, as
20 your counsel requested, Ms. Hendrix, I'm happy to 10:24:07
21 do so.

22 THE DEPONENT: Sure.

23 THE VIDEOGRAPHER: Okay. We're off the
24 record. It's 10:24 a.m.

25 (Recess taken.) 10:24:17

1 THE VIDEOGRAPHER: Okay. We're back on 10:43:22
2 the record. It's 10:43 a.m.

3 Q. (By Mr. Ko) Welcome back from the break,
4 Ms. Hendrix.

5 By the way, you are in Palo Alto for this 10:43:33
6 deposition, correct?

7 A. Yes, I believe so. We're the border of
8 Los Altos so I'm just not confident. But I'm
9 pretty confident we're in Palo Alto.

10 Q. And where are you at, specifically? Are 10:43:46
11 you at an office? Are you in Facebook's office?
12 Are you in Gibson Dunn's offices?

13 A. I'm in the Gibson Dunn law office.

14 MR. BLUME: Can't you tell by our fancy
15 artwork? 10:43:58

16 MR. KO: Sorry. You -- I minimized your
17 video. So I couldn't -- couldn't tell how
18 beautiful --

19 MR. BLUME: I'm offended by that.

20 MR. KO: -- and modern that artwork is. 10:44:04

21 (Discussion off the stenographic record.)

22 Q. (By Mr. Ko) And along with, I -- don't
23 know if that was a reference to another deposition
24 I took, but the -- along with your counsel,
25 Mr. Blume, there are other attorneys at Gibson Dunn 10:44:21

1 present with you, I assume? 10:44:26

2 A. Yes, at -- at the outset of this, we said
3 who they were.

4 MR. BLUME: Yeah. With -- with -- with
5 me in -- with me in the room is -- 10:44:39

6 MR. KO: Go ahead.

7 MR. BLUME: I can show you, if you want.

8 Now I lost my video.

9 Yeah. So with me is -- is -- who is
10 here. Prachi -- Prachi is here. Ian is here and 10:44:52
11 Kelly.

12 MR. KO: "Ian" being Ian Chen, an
13 employee of Facebook, correct?

14 MR. BLUME: Ian Chen, yes.

15 MR. KO: Okay. Anybody else in the room 10:45:07
16 with you?

17 THE DEPONENT: No.

18 MR. BLUME: No. Here, just so you can
19 see. There is everybody.

20 MR. KO: I -- I -- yeah. I appreciate 10:45:16
21 that.

22 Q. (By Mr. Ko) I want to ask some basic
23 questions about Facebook's organizational
24 structure. This is related to topic 1.

25 First, does Facebook have an 10:45:26

1 organizational structure? 10:45:27

2 A. Yes, Facebook has an organizational
3 structure.

4 Q. And I assume they have had an
5 organizational structure since January 1 of 2007, 10:45:41
6 correct?

7 A. Yes.

8 Q. If I wanted to know what Facebook's
9 organizational structure looked like, where would I
10 look? 10:45:55

11 A. You would go to what -- I believe it's
12 called like the org -- there's an org chart. Like
13 you can look up a person and see what -- who they
14 report in to.

15 Q. And this org chart that, I assume, has 10:46:17
16 existed ever since January 1 of 2007, correct?

17 A. Yes. We've always been able to look up
18 as far as -- as -- to the best of my knowledge, we
19 can look each other up and see what team --

20 Q. And when you -- 10:46:42

21 A. -- they're on.

22 Q. And -- and when you say you can look each
23 other up, I assume you're talking about some sort
24 of internal tool that a Facebook employee could
25 access to do that? 10:46:52

1 MR. BLUME: Okay. 10:48:09

2 THE DEPONENT: I don't believe there's
3 been other documents like -- like what I just
4 referred to.

5 Q. (By Mr. Ko) Okay. So other than the -- 10:48:21
6 this internal wiki, is there any other documents or
7 information you could point me or the Court to, to
8 show what Facebook's organizational structure
9 looked like?

10 MR. BLUME: Objection. 10:48:40

11 THE DEPONENT: Not that I'm aware of.

12 Q. (By Mr. Ko) And when you said before
13 that you could go to this org chart, I just want to
14 make sure I understand.

15 The -- the org chart you were talking 10:49:06
16 about is synonymous with this internal wiki tool
17 and page, correct?

18 A. No, not synonymous. Like there's a
19 company wiki, which is internal to Facebook
20 employees, and you can look up people by name. And 10:49:24
21 then you can click on see org, or something to that
22 effect, and then the page will display the person
23 in the way that I described.

24 Q. And is that company wiki distinct from
25 the org chart that you had referred to before? 10:49:47

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25	When you said "org chart," what were you	10:51:11
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1 referring to? Were you referring to the company 10:51:13
2 wiki or something else?

3 A. The company wiki is what I go to, to find
4 out who a person reports in to. And the word "org"
5 is there, and you click see org, or something to 10:51:31
6 that effect, and then you'll see who reports in to
7 them to the extent they are a manager and who they
8 report in to. And you do that within the company
9 wiki.

10 Q. Thank you. 10:51:54

11 And other than this -- well, you had also
12 talked about this internal wiki containing internal
13 documents.

14 Do you recall that?

15 A. Yes. 10:52:15

16 Q. What internal documents are you referring
17 to?

18 A. So it could be a -- a host of things. So
19 a team might create their own internal wiki page.
20 It's basically a place where you can -- you can 10:52:37
21 create a page that's -- that you -- like the
22 company wiki is -- is -- can be used for -- like a
23 place where teams can share information with each
24 other.

25 And it can be, I believe, locked down to 10:52:56

1 just certain people, or it can be a publicly 10:52:59
2 visible -- not to the public, but internal
3 employees could all be able to see the content. It
4 just depends.

5 Q. And would these internal documents 10:53:16
6 reflect a particular group's organizational
7 structure?

8 A. I'm not aware of any like ability to type
9 in the word developer operations, for example,
10 and -- and see the chart. Like don't think of the 10:53:34
11 chart that way. It's literally you look up a human
12 by name, and then you can see what team they're on,
13 and then you can see who reports in to them.

14 But I am not aware -- aware of anything
15 else. 10:53:53

16 Q. I see. That's helpful.

17 So it's employee- or individual-based; in
18 other words, like you said, you -- you type in
19 Allison Hendrix, and you can see every person that
20 Allison Hendrix reports to and every person that 10:54:07
21 reports to you, correct?

22 A. Yes.

23 Q. And you can also see what -- while you
24 can't type in DevOps or developer operations, by
25 typing in Allison Hendrix you can see what group or 10:54:21

1 team you're a part of, as well as the groups or 10:54:25
2 teams that report to you and -- and that you report
3 to; is that fair?

4 A. Yes. You can -- you can see the
5 reporting line. I believe the -- using my team as 10:54:39
6 an example, the data policy management and
7 enforcement team, I -- I believe it would be up to
8 the teams to -- if it's -- because that's a team
9 name within the broader team, so I think you have
10 the ability to edit and get more granular with 10:54:58
11 respect to the specific name, if you're on it.

12 But otherwise, like if you looked me up,
13 it might say that I'm on the privacy and data
14 policy because I am on. But I'm on a sub-team
15 within that team. And I -- and I think that the -- 10:55:12
16 I think that although people might have the ability
17 to add that, I don't -- it's -- I don't -- I -- I'm
18 not sure.

19 Q. And when you say that "people might have
20 the ability to add that," are you referring to 10:55:31
21 adding that as part of the search for,
22 hypothetically, Allison Hendrix, or are you saying
23 that that's something that IT, or someone else at
24 Facebook, would have to revise in order for that
25 sub-team or more granular level of -- of 10:55:46

1 information needed to be discovered? 10:55:49

2 A. You can look people up by individual
3 names. And then when you find me, there
4 are editable sections like about me. So I have the
5 ability to go to myself in the team wiki and I can, 10:56:04
6 if I choose to, like edit certain sections of my
7 profile.

8 Q. Got it. Understood.
9 Now, it's fair to say that there are
10 groups or departments at Facebook, correct? 10:56:23

11 A. Yes.

12 Q. And you indicated you are part of DevOps
13 or developer operations, correct?

14 A. I -- I joined the company. And when I
15 joined, I joined the developer operations team. 10:56:45

16 Q. And there are, of course, individuals and
17 employees within your team, correct?

18 A. You cut out. Could you say that again?

19 Q. Sure.

20 There -- there are, of course, 10:57:01
21 individuals and employees within each team,
22 correct?

23 A. There are employees within each team and
24 they are individuals, yes.

25 Q. I want to show you a list of teams that 10:57:20

1 I'm aware of, and -- and I want to ask you some 10:57:23
2 questions based upon that.

3 You'll be pleased to know that this is
4 PDF, and I can't type anything into here. So
5 hopefully that won't be distracting to you. 10:57:41

6 But here is a list that I'm aware of that
7 reflects the various teams at Facebook. And let me
8 read them to you and into the record. And, again,
9 this is just designed to help us facilitate this
10 Q and A. 10:58:03

11 But the groups/departments that I'm aware
12 of are as follows: management, legal, policy,
13 communications, platform operations, development
14 operations, advertising, security, privacy, human
15 resources, growth, sales and marketing, academic 10:58:22
16 research, engineering, and user research.

17 Do these all look like departments at
18 Facebook to you?

19 A. So like sales and marketing are not on
20 the same team. Like -- and -- and this doesn't 10:58:49
21 seem -- like -- like, you know, we have an HR team.
22 We have a legal team. There's many sub-teams
23 within teams. We have product teams. Multiple
24 product teams. Multiple comms teams within comms.
25 We have platform -- we have marketing teams. We do 10:59:15

1 have partnerships teams. 10:59:21

2 I don't see -- you have -- like we
3 have -- we have a research team. But there's also
4 other researchers embedded in team.

5 So like the way that you're structuring 10:59:35
6 this is a bit inconsistent with how we're
7 structured. And we refer to each other more as
8 organizations like -- than departments, but -- or
9 at least I do.

10 Q. Yeah. It's super helpful. 10:59:53

11 So from -- from this point forward, I
12 will do my best to refer to various the Facebook
13 teams as organizations, first of all. I will not
14 refer to them as departments and groups.

15 And what I'm hearing you say with respect 11:00:06
16 to this list is that it's incomplete; is that
17 correct?

18 A. Yes. It appears to -- it appears to be
19 incomplete. Like there's public policy teams.

20 Q. And then I heard you -- I -- I just want 11:00:34
21 to make sure I -- I get from you -- because you are
22 the Facebook designee on Facebook's organizational
23 structure -- I want to make sure I am not missing a
24 important or major or -- or any team, for that
25 matter, any organization that -- that you can think 11:00:52

1 of that is not listed here, I -- I want you to tell 11:00:57
2 the Court what organizations they are.

3 A. Well, you don't have the Facebook
4 culinary team. And you don't have like -- and I
5 don't know what you mean by privacy. Like you 11:01:15
6 don't have the privacy and data policy org, you
7 just have the word privacy.

8 There's a privacy team that our co-chief
9 privacy officer, Michel Protti, runs. The other
10 co-chief privacy officer is Erin Egan. That's who 11:01:31
11 I roll up in to.

12 So it's very difficult for me to do this
13 live and be able to tell the Court accurately if
14 I've, you know -- there's a choice in competition
15 team. And these are teams within teams as well. 11:01:51
16 And so I just -- I'm not quite sure, sitting here
17 now, that I can express competence. But had I,
18 you know, the opportunity, I could better,
19 you know -- I just need to review some documents.

20 Q. Well, you -- you did review documents in 11:02:16
21 connection with the deposition and you are
22 Facebook's corporate designee as to the
23 organizational structure.

24 So in light of that -- and this is --
25 this -- you're right. This isn't meant to be a 11:02:26

1 memory test. So I'm just simply asking you and 11:02:28
2 you -- it seems like you rattled off several groups
3 that aren't listed here. I -- I acknowledge that
4 this list isn't complete. And so I need you to
5 help me complete it. 11:02:38

6 So can you identify the group -- the
7 organizations at Facebook -- not the
8 sub-organizations -- but the organizations at
9 Facebook that are missing from this list?

10 A. There's the finance and -- team. The 11:02:55
11 accounting team. The investor relations team.
12 There's the data -- there's -- there are data
13 science teams. There are teams that work on our
14 data centers. Security teams.

15 Well, you have that there. 11:03:32

16 Q. Well, there's -- there's a security --
17 there's a security listed here.

18 Super helpful. Finance. Accounting.
19 Investor relations. Data science.

20 Earlier when you say -- said Facebook 11:03:49
21 culinary, did I hear that correctly?

22 A. Yes.

23 Q. Okay. I know you guys give away a lot of
24 free food so that -- that probably is a big team.

25 A. There's a facilities team. IT teams. 11:04:04

1 Q. Okay. And I want to go back to -- one of 11:04:10
2 your first responses and reactions to this list.

3 You had talked about multiple product
4 teams, right?

5 A. Yes. 11:04:27

6 Q. And obviously there's -- there are a lot
7 of product managers at Facebook working on a
8 variety of different products, correct?

9 A. Yes.

10 MR. BLUME: Objection. Beyond the scope. 11:04:38

11 Q. (By Mr. Ko) Do -- do the product
12 managers -- do the product managers roll into a
13 team on this list or would they have a separate
14 organizational -- or would they have a separate
15 organization for themselves? 11:04:54

16 MR. BLUME: Objection. Beyond the scope.

17 THE DEPONENT: So you need to appreciate
18 that Meta has a family of apps and services. So
19 there -- for example, using legal, there's product
20 counsel WhatsApp. There's product counselors for 11:05:14

21 Facebook, for Instagram, et cetera. So these teams
22 support different apps and services that we
23 provide.

24 So using the legal team, all of those
25 different people are on our legal team. Then -- 11:05:33

1 I'm just trying to go from memory here, you know. 11:05:48

2 I -- this -- this is one of those ones where it
3 might have been nicer for you to be typing.

4 Because I don't remember everything I've rattled
5 off. 11:06:02

6 But I -- I believe that I've given you
7 all the names of teams that are relevant to the
8 topics that I'm -- I'm -- I'm prepared to cover.

9 So I don't think I've omitted any teams that are
10 not a part of -- like the -- like -- like I 11:06:18
11 definitely think that I've given you all the names
12 of the teams that are relevant to the topics.

13 Q. (By Mr. Ko) Thank you. That's very
14 helpful.

15 And see, my typing was not intended to be 11:06:35
16 nefarious whatsoever. I'm trying to help us in
17 this testimony.

18 So maybe I'll try typing a little bit --
19 (Simultaneously speaking.)

20 THE DEPONENT: Well, Mr. Ko, just -- I 11:06:44
21 didn't know that -- I didn't know that the video
22 was capturing the screen. That was what made
23 me feel uncomfortable, because I thought that I'm
24 the only one on video. So that was what made me
25 uncomfortable, just so we're clear. 11:06:52

1 So to the extent that you continue to 11:06:55
2 engage in these exercises, I'm totally comfortable
3 with you typing. So I apologize for the -- my
4 confusion.

5 MR. KO: Okay. Thank you for -- thank 11:07:04
6 you for that. I appreciate that.

7 Q. (By Mr. Ko) One organization that you
8 had mentioned, too, that you -- that seems to be
9 missing here that's a pretty big one are the -- the
10 partnership teams, correct? 11:07:17

11 Partnership organizations, correct?

12 A. Yes. And there's games teams, too.
13 Teams that support games within partnerships,
14 though, I believe and -- yes, that's right.

15 Q. Great. 11:07:40

16 So all -- all of this is to say that this
17 list here that I'm showing you and that I read into
18 the record before is definitely incomplete as to
19 the total number of organizations at Facebook,
20 right? 11:07:55

21 MR. BLUME: Objection. Beyond the scope.

22 THE DEPONENT: What you're displaying is
23 complete -- is incomplete. I supplemented it with
24 my testimony. I can't see what I said. But I do
25 think we've captured primarily the high-level 11:08:13

1 organization structure of -- of Meta, yeah. 11:08:18

2 Q. (By Mr. Ko) Great. Thank you for that.

3 Now, what organizations were responsible

4 for or otherwise worked on any aspect of developer

5 access to the Facebook platform? 11:08:47

6 A. This would be -- and, again, I'm assuming

7 this is for the entire period, relevant period?

8 Q. Correct.

9 A. Okay. So --

10 MR. BLUME: Hang -- hang on one second. 11:09:05

11 THE DEPONENT: Okay. Sorry.

12 MR. BLUME: I'm just -- I'm -- I'm just

13 looking at the -- at the notice.

14 What topic is this?

15 MR. KO: Topic 1, Mr. Blume. 11:09:13

16 MR. BLUME: Well, how is it related to

17 the --

18 (Simultaneously speaking.)

19 MR. KO: Facebook's organizational

20 structure. 11:09:20

21 MR. BLUME: As it relates -- as that

22 relates to 1a, b and c. Which of a, b and c is it

23 relating to?

24 MR. KO: Well, it's really referring to

25 all -- I'll -- I'll try to be helpful and tell you 11:09:28

1 But it would be legal and privacy org and 11:10:39
2 privacy and data policy org, public policy, comms,
3 marketing, product, eng. I think I said comms.
4 Partnerships can be involved.

5 Q. (By Mr. Ko) How about the platform 11:11:05
6 and -- platform and development -- developer
7 operations teams?

8 A. Developer operations would be involved as
9 well. It all depends on the nature and scope of
10 the specific topic within the topics on -- listed 11:11:21
11 in 2b.

12 Q. Got it.
13 Several -- several organizations at
14 Facebook were responsible for -- otherwise worked
15 on aspects of developer access to the Facebook 11:11:36
16 platform; is that fair to say?

17 A. Yes. I mean, going back to the earlier
18 example, it really needs to be granular. So for
19 example, developer operations wouldn't work closely
20 on an update to the SRR. 11:11:59

21 Q. Well -- and -- and that's -- that's a
22 good segue into my next question, which was --
23 which is, which depart- -- which organizations at
24 Facebook were responsible for drafting and
25 enforcing the policies applicable to use of the 11:12:18

1 Facebook platform by developers? 11:12:22

2 A. Drafting and enforcing are two different

3 things. So in regards to drafting, like the

4 statement of rights and responsibilities, that is

5 largely -- that is legal driven. But with input 11:12:36

6 from, again, multiple policy orgs; the comms team,

7 marketing teams.

8 And then in regards to the enforcement

9 that, again, is my team. Legal. Developer

10 operations. External datums use. And there's an 11:13:03

11 eCrime team.

12 I forgot to mention the -- I believe it's

13 referred to now as the content policy team. I

14 forgot to mention that earlier. That was rebranded

15 from the global policy management team that I 11:13:26

16 referred to earlier. So same team, different name.

17 Many teams get pulled in for both

18 drafting. And then in -- drafting of terms and

19 policies. And then depending on the enforcement

20 aspect of it, we collaborate on enforcement 11:13:51

21 approach with multiple teams as well.

22 Q. And I appreciate you distinguishing the

23 difference between drafting and enforcing. So

24 let's unpack that, and let's just focus on the

25 drafting to start with. 11:14:13

1 You've testified as to who was part of 11:14:15
2 the drafting of the SRRs. Can you also describe to
3 the Court what organizations were responsible for
4 drafting the data use policies?

5 A. It would be the same response with 11:14:37
6 respect to the drafting of the SRR for the data --
7 for the data use policy, the same teams would be
8 pulled in.

9 Q. How about with respect to the -- the
10 platform policies -- 11:14:53

11 A. Same response.

12 Q. -- who -- okay.

13 And with respect to the drafting of the
14 SRRs, DUPs and platform policies, who would you
15 say -- of the organizations that you have 11:15:09
16 described, who would you say had primary
17 responsibility for drafting these policies?

18 MR. BLUME: Objection. Time frame.

19 THE DEPONENT: Legal has the primary
20 responsibility of drafting all three of those. But 11:15:29
21 then there is a period of time where -- where the
22 platform policies are managed by myself. The team
23 I'm on, on the global policy management team. But
24 as I said earlier, we don't do things in a vacuum.
25 But I was the person who drove the development and 11:15:53

1 updates to the platform policies. 11:15:57

2 And now -- oops -- I -- I think that's --
3 I think that's all I have -- I'm so sorry.

4 Q. (By Mr. Ko) And when you say that there
5 were updates made to the platform policy, in 11:16:14
6 particular, what are you referring to?

7 A. Well, there's been multiple versions of
8 what you and I earlier agreed to. We're just going
9 to call them platform policies. But now, present
10 day, it's platform terms and developer policies. 11:16:38
11 But there's multiple changes over the years based
12 on a number of factors.

13 Q. So the global policy management team for
14 which you are currently -- or were involved in,
15 they were responsible for and had primary 11:16:53
16 responsibility with respect to the drafting of
17 these platform policies and updates thereto; is
18 that fair to say?

19 MR. BLUME: Objection.

20 THE DEPONENT: It all depends on what 11:17:14
21 time period. But from -- so in the context of the
22 platform terms and developer policies that we
23 launched, that was very -- like co-driven with
24 legal and -- and -- and my team working pretty much
25 side by side. But, again, with input and feedback 11:17:38

1 from all of the respective teams that I outlined 11:17:41
2 before.

3 Q. (By Mr. Ko) Great.

4 And -- and with respect to the SRRs and
5 DUPs, and all iterations thereto, what other 11:17:52
6 organizations, other than legal, have primary
7 responsibility for drafting and revising and
8 updating those respective policies?

9 MR. BLUME: Object- -- objection. Form.

10 THE DEPONENT: Legal has always, and 11:18:17
11 continues today, to be the manager of those of
12 and -- and policy --

13 Q. (By Mr. Ko) Are there any other --

14 A. -- with significant input from other
15 teams, but they're the -- they're -- they hold the 11:18:31
16 pen.

17 Q. And from the teams that you had described
18 before, and organizations, are there any that you
19 can identify that had primary responsibility or
20 co-responsibility with the drafting of these, 11:18:50
21 similar to how the global management team had
22 co-responsibility with legal as to the platform
23 policies?

24 MR. BLUME: Objection. Form.

25 THE DEPONENT: I just realized I forgot 11:19:03

1 to reference the content strategy team. 11:19:06

2 So having corrected myself there now, I
3 apologize, Mr. Ko. Could you repeat your question.

4 Q. (By Mr. Ko) Sure.

5 And so this -- this team that you had 11:19:20
6 recalled, this content strategy team, they were --
7 or had primary responsibility along with the global
8 management team to help update the platform
9 policies with legal; is that correct?

10 MR. BLUME: Objection. 11:19:38

11 THE DEPONENT: I -- I am only comfortable
12 saying that the legal team has the primary
13 responsibility for the terms and service, also
14 known as the SRR. And the data use policy, also
15 referred to as the privacy policy. With the next 11:19:50
16 largest contributor being the -- Erin Egan's
17 privacy and data policy team.

18 But, again, many people have eyes on
19 proposed revisions. But those would be the two
20 teams. Legal being primarily accountable, but 11:20:08
21 working most closely with Erin Egan's org over the
22 years. But, again, everyone has a chance to review
23 and provide feedback and input.

24 Q. (By Mr. Ko) And with respect to the
25 privacy and data policy team that Erin Egan was in 11:20:29

1 charge of, at least for some period of time, are 11:20:34
2 you saying that they were the next largest
3 contributor to legal with respect to just the SRRs
4 and data use policy, or are you saying with respect
5 to all the policies that we've been talking about, 11:20:52
6 including the Facebook platform policy?

7 A. So Erin Egan's team, of which I'm now on,
8 primarily would play a role in the data use policy
9 updates. Again, legal holding the pen, but -- but
10 Erin Egan's org, the privacy and data policy team, 11:21:18
11 would be providing input and feedback. And
12 seeking, you know, feedback on -- on data policy
13 updates. And the research team has been involved
14 as well.

15 Q. How about with respect to the SRRs, 11:21:45
16 who -- who would -- who would you say -- or what
17 organization would you say is the next largest
18 contributor to the SRRs, outside of legal?

19 A. I would say that both Monika Bickert's
20 content policy, global policy management team, they 11:22:05
21 and Joel Kaplan's org, which Erin reports in to
22 Joel, that they would be the primary people.

23 But legal largely drives terms -- the
24 terms of service updates. But they do seek input,
25 again, because nothing here is done in a vacuum. 11:22:32

1 Q. What was the organization that 11:22:39
2 Joel Kaplan was part of?
3 A. Well, Joel is still at the company. He
4 has -- his teams -- so Erin reports in to Joel. So
5 Joel is public policy and privacy and data policy 11:22:59
6 orgs.
7 Trying to think who else. I might have
8 to refresh my memory.
9 But primarily, Joel leads the team that
10 manage our public policy privacy and data policy 11:23:19
11 teams.
12 Q. So was Monika's content global team and
13 Joel Kaplan's public policy and privacy team that
14 were the next largest contributors, other than
15 legal, to the SRRs? 11:23:39
16 A. Monika reports in to Joel --
17 Q. Did I get --
18 A. -- her team.
19 THE COURT REPORTER: I'm sorry. In to
20 who? 11:23:42
21 THE DEPONENT: Monika Bickert reports in
22 to Joel Kaplan.
23 Q. (By Mr. Ko) Okay. So other than
24 legal -- I just want to make sure I'm crystal clear
25 on this. 11:24:05

1 Other than legal, the next largest 11:24:05
2 contributor to the SRRs is the public policy and
3 privacy organization; is that accurate?

4 A. I think it's more accurate to say, other
5 than legal, Joel Kaplan's org teams that I just 11:24:15
6 outlined are the -- are given a chance to preview
7 and provide feedback, along with other teams. But
8 they -- the teams that report in to Joel would have
9 an opportunity to review and provide input on
10 updates. 11:24:36

11 Q. And Joel's team and organization selected
12 public policy, privacy and data C [phonetic] teams,
13 correct?

14 A. And the content policy team that has also
15 been and sometimes is still currently referred to 11:24:53
16 as the global policy management team.

17 So of those orgs, primarily, it would be
18 Erin and Monika's teams. And I wouldn't say that
19 one had more input over the other. They both have
20 an opportunity to provide input. But legal largely 11:25:08
21 drives updates to the terms of service.

22 Q. Facebook has, as you indicated before, a
23 finance team or organization, correct?

24 A. Yes. There's a finance team at Facebook.

25 Q. And they also have an account -- Facebook 11:25:35

1 also has an accounting organization, correct? 11:25:37

2 A. Yes, the finance and -- there's finance
3 and accounting teams.

4 Q. And did the Facebook finance and or --
5 and accounting organizations exist prior to 11:25:49
6 Facebook's IPO in 2012?

7 MR. BLUME: Objection.

8 THE DEPONENT: So we -- we definitely had
9 finance and accounting teams, yes, prior to the
10 IPO. 11:26:12

11 Q. (By Mr. Ko) Fair to say that Facebook
12 had a finance and accounting team for the entire
13 time period that it was in existence or has been in
14 existence?

15 A. We're just talking about during the 11:26:31
16 relevant period, right. You're not talking about
17 when Facebook was first created.

18 Q. Fair enough. Yes.

19 From January 1st, 2007 to present, has it
20 always been the case that Facebook has had a 11:26:43
21 finance and accounting team?

22 MR. BLUME: Objection. Compound.

23 THE DEPONENT: It is fair to say that --
24 to that there's always been -- to -- to the extent
25 it became -- becomes relevant a team that -- that 11:26:57

1 works on finance and accounting. 11:27:01

2 Q. (By Mr. Ko) Approximately how many
3 individuals have been on the finance team over the
4 relevant time period?

5 MR. BLUME: In -- in total? 11:27:19

6 Q. (By Mr. Ko) Do you understand the
7 question?

8 A. Yes. But I -- I don't know the -- the --
9 I -- I don't know the answer to -- for -- from 2007
10 to 2022. That number obviously has changed and 11:27:33
11 grown, but I don't know the specifics, sitting here
12 today.

13 Q. Can you give the Court a general
14 understanding of the number of employees that were
15 in the finance team throughout the relevant time 11:27:49
16 period?

17 And not in total. But just an estimate
18 as to year over year, about how many individuals
19 were on that team.

20 MR. BLUME: Objection. Form. 11:28:04

21 THE DEPONENT: I --

22 MR. BLUME: Don't guess if you --

23 THE DEPONENT: Yeah, I can't. I -- I
24 don't know.

25 Q. (By Mr. Ko) Ms. Hendrix, in -- in 11:28:12

1 topic 1, one of the aspects of topic 1 that you 11:28:13
2 have agreed to testify as to are the employees in
3 each department as they relate to some of the
4 sub-topics in topic 1.

5 So let me try it again. 11:28:28

6 Do you have any understanding of the
7 number of employees in the finance team over the
8 relevant time period?

9 MR. BLUME: Objection. Beyond the scope.

10 THE DEPONENT: No, I -- 11:28:43

11 Q. (By Mr. Ko) I was just --

12 A. I don't know. I know that the finance
13 and accounting teams are accountable for valuations
14 of the company. But I don't know -- and I know I
15 could provide you with some names of those 11:28:52
16 senior-most accountable people. Dave Wehner being
17 you know, the obvious, chief privacy officer --
18 or chief privacy -- chief finance officer.

19 But I don't -- I can't give you numbers
20 of how many employees have come and gone from 2007 11:29:07
21 to 2022. But I'm prepared to speak on what those
22 teams do.

23 Q. Do you have a general understanding of
24 how many employees are currently in -- on the
25 finance team under Dave Wehner? 11:29:24

1 MR. BLUME: Objection. Beyond the scope. 11:29:28

2 MR. KO: Let me just make sure and
3 respond to that objection on the record.

4 The topic is clear in asking for the
5 employees in each department. And so one could 11:29:36
6 easily and logically conclude that topic would
7 relate to the amount and number of employees in
8 that department.

9 MR. BLUME: And as -- sorry.

10 MR. KO: So -- 11:29:49

11 MR. BLUME: As the -- as the number and
12 amount of those employees relate to "The
13 calculation of revenues, gross profits, net
14 profits, goodwill, impairments and assets
15 recognized by Facebook related to Users' Data or 11:29:57
16 Information, including but not limited to
17 Facebook's public reporting," there are many in the
18 finance organization that have nothing to do with
19 user data and information.

20 And so requesting the numbers of those 11:30:11
21 people is beyond the scope of, 1 sub-topic a.

22 MR. KO: So I had a question -- let me
23 just ask the question.

24 Q. (By Mr. Ko) Again, do you have an
25 understanding of how many employees are currently 11:30:26

1 under the finance team -- on the finance team under 11:30:30

2 Dave -- which is Wehner?

3 MR. BLUME: Objection. Same objection.

4 THE DEPONENT: Sitting here right now, I

5 know that I could get that information, but I -- 11:30:46

6 I -- in terms of how many people report in to him.

7 But I didn't interpret the topic to require me to

8 show up with numbers, but more to be prepared to

9 speak to those sub-topics.

10 Q. (By Mr. Ko) And so I just wanted to make 11:30:59

11 sure the record is clear.

12 Do you have an understanding as to how

13 many employees were on either the finance or

14 accounting teams at any point in time during the

15 relevant time period? 11:31:18

16 MR. BLUME: Objection. Beyond the scope.

17 THE DEPONENT: I could find out how many

18 are on the teams today. But I don't know the

19 numbers from January 1, 2007, up until present.

20 Q. (By Mr. Ko) That's helpful. 11:31:40

21 So -- so you could -- if you -- if you

22 wanted to, one could obviously find out that

23 information right?

24 That's not hard to get, correct?

25 A. I -- I think it might take some time 11:31:52

1 because you have to click on -- you know, look up 11:31:54
2 Dave Wehner's name and then see who reports in to
3 him and keep clicking to find -- you know, all the
4 way down the chain. But I didn't do that.

5 Q. Yeah. And I'm not asking you what you 11:32:09
6 did. You've made that clear in how you've
7 interpreted this.

8 I'm just -- I'm just simply asking you,
9 if one wanted to find out how many individuals were
10 on the finance and accounting organizations, or any 11:32:20
11 organization for that matter, throughout the
12 relevant time period, that is information one could
13 obtain, correct?

14 MR. BLUME: Objection. Beyond the scope.

15 THE DEPONENT: I don't know if we've 11:32:38
16 retained any type of records as the teams have
17 grown and changed over the years. So I -- I don't
18 know if we could produce that.

19 Q. (By Mr. Ko) But produce it presently at
20 least, correct? 11:32:57

21 MR. BLUME: Objection. Beyond the scope.

22 THE DEPONENT: I could --

23 MR. BLUME: No.

24 THE DEPONENT: Okay. I won't. I won't.

25 MR. BLUME: It's -- 11:33:08

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1 Q. (By Mr. Ko) So you -- you didn't get an 11:33:08
2 instruction that you --
3 (Simultaneously speaking.)
4 MR. BLUME: You're -- you're asking
5 about -- 11:33:11
6 MR. KO: -- weren't allowed to answer the
7 question. I have a question --
8 MR. BLUME: You're asking if Ms. --
9 MR. KO: You can object --
10 MR. BLUME: -- Ms. Hendrix -- 11:33:23
11 MR. KO: The only way you can object.
12 That's it.
13 THE COURT REPORTER: Hold on. Hold on.
14 One at a time, please.
15 MR. BLUME: Objection. 11:33:24
16 Q. (By Mr. Ko) Remember how earlier I said
17 unless Mr. Blume clearly instructs you not to
18 answer the question, I would request that you
19 answer my question nonetheless. That's the way
20 this -- this goes. 11:33:33
21 So you could produce the information as
22 to how many employees were part of a particular
23 Facebook organization, and you could find that out
24 presently if you wanted to, right?
25 MR. BLUME: Okay. Different ques- -- 11:33:55

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1 report in to that human. 11:35:19

2 Q. (By Mr. Ko) Turn to topic 1a of the
3 notice.

4 Do you see the items listed there?

5 A. May I -- may my -- Mr. -- may Rob pass me 11:35:31
6 this. Okay.

7 Q. Yeah, absolutely.

8 And -- and just so -- for your benefit,

9 I -- I would ask that you just have the -- the
10 notice handy throughout this deposition. You can 11:35:41
11 have that in front of you, because obviously
12 we're -- we're referring to it a lot, so...

13 A. I mean, it's been handy. I just don't --
14 I'm trying to follow the rules. So to the extent
15 you refer to it, I -- I will -- it's right here. I 11:35:53
16 just didn't know if I was allowed to -- to ask for
17 it.

18 Okay. I see 1a, yes.

19 Q. Do you see the items listed there?

20 A. Yes. 11:36:12

21 Q. What employees or organizations at
22 Facebook were responsible for the items listed in
23 1a?

24 A. Finance and accounting are the teams
25 accountable for valuations for the company. 11:36:29

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1 Q. In addition to valuations, are they also 11:36:33
2 responsible for the calculation -- calculation of
3 revenues, gross profits, net profits, goodwill,
4 impairments and assess recognized by Facebook
5 relating to its users? 11:36:44

6 MR. BLUME: I'm sorry. Related to users'
7 data and information, not the users.

8 Q. (By Mr. Ko) Sure. You can answer it
9 that way.

10 A. Well, reporting of revenue is handled by 11:37:03
11 a cross-functional team, which includes finance and
12 legal and investor relations and corporate
13 communications.

14 So for the reporting aspect, those are
15 the teams. But just for valuations, which I -- I'm 11:37:16
16 just using that generally to talk about the
17 calculation of these things. If you prefer I don't
18 do so, I can hammer off each word.

19 But all -- all of the calculation of --
20 of -- of revenues is done by finance and 11:37:32
21 accounting. The reporting is done by those
22 additional teams I named.

23 Q. Thank you. That's helpful.

24 And, yes, we can refer to these items as
25 valuation. Thank you for that clarification. 11:37:47

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1 So this other cross-functional team, 11:37:51
2 what -- what was the specific cross-functional team
3 that did the reporting of the revenues?

4 A. Well, it's finance, legal, investor
5 relations and corporate communications. But just 11:38:03
6 going to 1a, there's no monetization, like no user
7 data monetization calculation. I don't know if I
8 should make that clear.

9 But just the team that like calculates
10 our revenues is finance and accounting. But 11:38:17
11 there's nothing pertaining to -- of user data
12 that's tied to that.

13 Q. And when you say that there's no
14 monetization calculation or user data monetization
15 calculation within this topic, what -- what did you 11:38:32
16 mean by that?

17 A. We don't put a number on -- a price on --
18 on users' data. 98 percent of our revenues are
19 through ads.

20 MR. KO: It's gotten even higher in 11:38:52
21 recent years.

22 MR. BLUME: Objection.

23 Q. (By Mr. Ko) With respect to -- let's
24 unpack your statement about not putting a number on
25 a particular user. 11:39:07

1 Is it your testimony that Facebook 11:39:09
2 neither directly nor indirectly places a number on
3 Facebook users' data information?

4 A. We --

5 MR. BLUME: Objection. Form. 11:39:21

6 THE DEPONENT: We -- we have never done
7 that. We don't -- we don't do that at all.

8 Q. (By Mr. Ko) So it's your testimony that
9 you do not place any indirect value or
10 quantification on a particular user's data 11:39:36
11 information.

12 Do I understand your testimony correctly?

13 MR. BLUME: Objection. Form.

14 THE DEPONENT: I don't quite understand
15 what you mean. But in -- in -- in regards to like 11:39:44
16 revenue, a person's data is not a factor in how
17 we -- in -- in how we make money.

18 Q. (By Mr. Ko) Well, don't you report --

19 A. It's based on, again, 98 percent ads.

20 Q. Don't Facebook's public -- publicly 11:40:04
21 available financial accounting, including their
22 10-Ks, report as a key metric of the company,
23 average revenue per user?

24 MR. BLUME: Objection. Beyond the scope.

25 Not your topic. 11:40:19

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1 MR. KO: Note for the record, I highly 11:40:22
2 disagree with that.
3 But go ahead --
4 MR. BLUME: It's --
5 MR. KO: -- and answer that question. 11:40:25
6 MR. BLUME: It's -- it's covered by
7 topic 10, David, so -- the monetization.
8 She's here to talk about the
9 organizational structure involved in the
10 calculation, not the calculation itself. That's 11:40:34
11 topic 10. So that's my objection. And there's no
12 reason for her to speculate on that.
13 MR. KO: Noted. I'll ask the question
14 again.
15 Q. (By Mr. Ko) Doesn't Facebook's publicly 11:40:50
16 available financial documents, including their
17 10-Ks report, as key metrics of the company,
18 average revenue per user?
19 MR. BLUME: Objection. Instruct you not
20 to answer in the capacity of your 30(b)(6). 11:41:01
21 If you know, individually, you can
22 answer. But not as a 30(b)(6) witness with regard
23 to this topic.
24 THE DEPONENT: I don't know. I know we
25 calculate a revenue by Facebook user geography 11:41:11

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1 based on our estimate of the geography in which ad 11:41:14
2 impressions are delivered, virtual and digital
3 goods are purchased, or consumer hardware devices
4 are shipped.

5 Q. (By Mr. Ko) Average revenue per user an 11:41:26
6 important metric for purposes of --

7 MR. BLUME: Object.

8 Q. (By Mr. Ko) -- calculating revenues?

9 MR. BLUME: Objection. Instruct you not
10 to answer in your role as a 30(b)(6) witness. 11:41:35
11 Beyond the scope.

12 If you know in your personal capacity, I
13 guess you can answer in that capacity, although you
14 have, Ms. Hendrix, in your personal capacity coming
15 up, so... 11:41:50

16 Q. (By Mr. Ko) So the record is clear --

17 A. I don't remember his question.

18 Q. -- is average revenue per user an
19 important metric for purposes of calculating
20 revenue? 11:42:00

21 MR. BLUME: Objection. Beyond the scope.
22 Please don't answer in regard to your
23 30(b)(6) capacity.

24 THE DEPONENT: I've already said we don't
25 calculate revenue by users, like we -- we don't 11:42:12

1 have that, so I -- I don't... 11:42:16

2 Q. (By Mr. Ko) Is ARPU an acronym that
3 sounds familiar to you?

4 A. No.

5 Q. You've never heard of ARPU? 11:42:31

6 MR. BLUME: Objection. Her personally,
7 or her as a corporate representative?

8 MR. KO: Well, I'll ask both. But,
9 you know, definitely in -- in -- in your corporate
10 capacity. 11:42:44

11 MR. BLUME: And I -- it's -- it's beyond
12 the scope of her corporate designation in topic 1.
13 So I instruct you not to speculate or guess.

14 THE DEPONENT: I don't -- I don't know.

15 Q. (By Mr. Ko) So as I -- I just want to 11:42:56
16 make sure the record is clear.

17 As a corporate designee of Facebook, who
18 consented to testifying on behalf of the
19 corporation, as to the organizational structure,
20 including the calculation of revenues, your answer 11:43:09
21 is that you don't know and have never heard of the
22 acronym ARPU; is that correct?

23 MR. BLUME: Objection to your
24 recharacterization of topic 1, it's the organi- --
25 organizational structure related to the calculation 11:43:22

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1 of revenue. Not terms involved in the calculation 11:43:25
2 of revenue. Beyond the scope.
3 You have a witness to topic 10 that is
4 upcoming. You are free to ask those questions.
5 So I'd instruct you not to answer to the 11:43:39
6 extent it's beyond the scope of topic 1.
7 MR. KO: Yes-or-no question, Ms. Hendrix.
8 MR. BLUME: Instruct you not to answer --
9 MR. KO: As a corporate designee --
10 You can stop with these speaking 11:43:49
11 objections. Your objection has been noted.
12 MR. BLUME: I'm -- I'm instructing her
13 not to -- I'm instructing her not to answer.
14 That's my -- that's my objection.
15 MR. KO: Even to say -- 11:43:57
16 (Simultaneously speaking.)
17 SPECIAL MASTER GARRIE: Duly noted for
18 the record. Please move forward.
19 Objection is noted for the record, Mr. --
20 Counsel Ko, please ask the question again. 11:44:05
21 MR. KO: Please ask the question again?
22 SPECIAL MASTER GARRIE: Did she answer
23 the question?
24 MR. KO: No, she did not. That's why I
25 keep asking it. So that's why I'm a little 11:44:20

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1 confused. 11:44:23

2 SPECIAL MASTER GARRIE: Okay. So we've
3 noted the objection.

4 Ms. Hendrix, could you please answer the
5 question, given the advice you received from your 11:44:26
6 counsel.

7 MR. BLUME: If you know in your personal
8 capacity, you can answer.

9 THE DEPONENT: I don't know that acronym.

10 Q. (By Mr. Ko) Have you heard of the 11:44:36
11 acronym MAU?

12 A. Yes.

13 Q. What does that refer to?

14 A. Monthly active users.

15 Q. Have you heard of the acronym DAU? 11:44:48

16 A. Yes.

17 Q. What does that refer to?

18 A. Daily active users.

19 Q. You've never heard of ARPU or average
20 revenue per user; is that correct? 11:45:04

21 MR. BLUME: Objection. Asked and
22 answered in her personal capacity.

23 THE DEPONENT: It's still correct that I
24 don't know that acronym.

25 Q. (By Mr. Ko) Now, turning back to the 11:45:30

1 SRRs and DUPs, are those -- is it fair to say that 11:45:32
2 the SRRs and DUPs are how Facebook discloses to
3 users how Facebook uses the data information
4 Facebook collects about them?

5 A. So you're referring to them as -- in the 11:45:56
6 plural. So there's only an SRR and a DUP. So I
7 don't know what else you're referring to when you
8 say SRRs and DUPs.

9 Q. Okay. I was referring to them plurally
10 because -- that's fair. And let's back up a little 11:46:12
11 bit.

12 There were various iterations of both the
13 SRR and the DUP, correct?

14 A. Yes.

15 Q. And so when I'm referring to them in the 11:46:24
16 plural, I'm talking about all the various versions
17 and iterations of the SRR and the DUP.

18 So, hopefully, with that clarification,
19 my question could potentially be more clear. I'm
20 happy to try and rephrase it, but let me try again. 11:46:42

21 Would you agree with me that the SRRs and
22 the DUPs govern how Facebook uses the data and
23 information Facebook collects from and about
24 Facebook users?

25 A. So you are breaking up, so I haven't 11:47:05

1 heard all of your words. And could someone go on 11:47:07
2 mute?

3 MR. BLUME: There was -- there was -- I
4 think there was typing. Someone was typing. It
5 was -- it blocked you out. 11:47:15

6 Could you ask that again, David.

7 Q. (By Mr. Ko) Do you agree with me that
8 the SRRs and the DUPs govern how Facebook uses the
9 data and information Facebook collects from and
10 about Facebook users? 11:47:35

11 MR. BLUME: Objection. Form.

12 THE DEPONENT: The -- I agree that the
13 SRR is the terms of -- the agreement with people
14 who use our service. And that the data use policy
15 is the document which outlines the different -- not 11:47:50
16 the different -- that the data use policy is the
17 primary document that outlines to people what we
18 collect and how we will use the information, and
19 how -- (indiscernible) it is.

20 So the DUP being the primary document in 11:48:07
21 terms of use of -- of information. But there's a
22 whole host of educational materials out there. But
23 those -- the DUP is the primary source.

24 Q. (By Mr. Ko) Okay. Are any of these
25 educational materials, policies or contracts that 11:48:23

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1 Facebook asks the user to consent to? 11:48:27

2 MR. BLUME: Objection. Form.

3 THE DEPONENT: When a user signs up,

4 they're -- they're agreeing that they've read the

5 data use policy and that they are going to adhere 11:48:45

6 to the terms of service --

7 THE COURT REPORTER: Hold on. Hold on.

8 There's some background noise coming --

9 MR. KO: I've been getting it, too. I --

10 I don't know if there's someone over the microphone 11:49:12

11 on your end, Ms. Hendrix. I don't know if it's --

12 something is on top of it.

13 MR. KO: No, there's only two. One here

14 and one there, and they haven't moved.

15 THE COURT REPORTER: So I just need you 11:49:12

16 to repeat that answer, please.

17 THE DEPONENT: I don't remember the

18 question.

19 Q. (By Mr. Ko) Are any of these educational

20 materials, policies or contracts that Facebook -- 11:49:16

21 Facebook asks the user to consent to?

22 MR. BLUME: Objection. Form.

23 THE DEPONENT: They are materials

24 intended to -- to educate people, but they are

25 not -- for example, we don't agree to the help 11:49:28

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1 center. 11:49:33

2 Q. (By Mr. Ko) Let me ask it a different
3 way. And, again, this is just to orient ourselves
4 for purposes of this discussion.

5 But is it fair to say that the SRR and 11:49:45
6 the DUP are the two primary policies or contracts
7 that govern how Facebook uses the data and
8 information Facebook collects from and about users?

9 MR. BLUME: Objection.

10 THE DEPONENT: With respect to the 11:50:05
11 Facebook product, yes, I -- those are the two
12 primary documents.

13 Q. (By Mr. Ko) And when I say "data and
14 information," the SRR contains a provision in it
15 that is referred to as "content information." 11:50:29

16 Does that sound familiar?

17 A. I'd need to look at whatever version
18 you're referring to.

19 Q. That -- that's fair.

20 But without referring to a particular 11:50:45
21 version, let me ask it this way, does the phrase
22 "content and information" sound familiar to you at
23 all?

24 MR. BLUME: Objection. Form.

25 THE DEPONENT: Yes. And I just want to 11:50:57

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1 flag that we had agreed at the outset that Facebook 11:50:59
2 and Meta would be interchangeable. I just want to
3 flag that, you know, the terms of service, the SRR
4 is with -- with respect to Facebook. But there's
5 Instagram terms of service, for example. So I just 11:51:12
6 want to make sure that that point is clear.

7 And other, you know, terms for things
8 like Oculus and -- and, you know, WhatsApp. So I
9 just used Facebook in that response just to mean
10 people who use the Facebook app. 11:51:28

11 MR. BLUME: And, David, we've been going
12 a little more than a hour, if you're coming up to a
13 break.

14 MR. KO: Sure. Thank you for that
15 explanation. 11:51:40

16 Q. (By Mr. Ko) Let me ask the question I
17 was asking before.

18 Does the phrase "content and information"
19 sound familiar to you at all?

20 MR. BLUME: Objection. 11:51:47

21 THE DEPONENT: Yes.

22 Q. (By Mr. Ko) What is your understanding
23 of content and information?

24 MR. BLUME: Objection. Form.

25 THE DEPONENT: That's incredibly broad. 11:52:00

1 Like what do you mean? 11:52:07

2 Q. (By Mr. Ko) I'm asking you what your

3 understanding -- what your understanding of

4 content -- you said you understood what content and

5 informa- -- content -- content information is, 11:52:12

6 correct?

7 MR. BLUME: Objection.

8 THE DEPONENT: Yes. But you -- you

9 earlier said content and information as if it was a

10 header in the SRR. One of the various versions, 11:52:21

11 many -- all of which I've reviewed.

12 Sitting here today, I'd need to look at

13 the terms of service to see if that is a header.

14 But now you've broadened us out, or so I'm

15 interpreting it. And so now you're just asking me 11:52:37

16 generally like what the definition of content and

17 information mean to me. So I am not sure where

18 you're heading with this.

19 Q. (By Mr. Ko) Let's go back to in the

20 context of the SRR. 11:52:51

21 Are you familiar with the phrase "content

22 and information" in the context of the SRR?

23 A. I would need to -- to look -- I'm not --

24 I'm not just -- there's so much material, as I'm

25 sure you understand. 11:53:11

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1 I -- I don't remember. But I'm more than 11:53:12
2 happy to be presented with whatever you apparently
3 are seeing that I'm not. So I can --

4 Q. I'm not seeing anything --

5 A. -- refresh my recollection. 11:53:24

6 Q. We can do that in a -- in a moment,
7 but -- but before we do that, I'm just establishing
8 some foundation and some things that you know or
9 you don't know, without having to go to the
10 document. 11:53:37

11 So is -- is it your testimony that you
12 don't know what content and information in the
13 context of the SRRs refers to?

14 Simple yes-or-no question.

15 MR. BLUME: Objection. Form. And scope. 11:53:46

16 THE DEPONENT: It's not that I don't
17 know. It's that I don't remember and need to
18 refresh. I don't think the Court expects me to
19 remember every single word in every version of the
20 document. I think that that is unfair. 11:54:00

21 Q. (By Mr. Ko) Okay. Well, your -- your
22 objection is duly noted. But I think you're
23 probably assuming way too much in my question. I'm
24 asking you a very simple and straightforward
25 yes-or-no question. 11:54:14

1 Does the term "content and information" 11:54:16
2 in the context of the SRR mean anything to you?
3 MR. BLUME: Objection.
4 You can answer in your personal capacity,
5 if it means anything to you. 11:54:30
6 MR. KO: Stop -- stop, Mr. Blume.
7 MR. BLUME: I'm giving her instruction.
8 You don't have to interrupt me.
9 THE DEPONENT: I know what content --
10 like, for example, the SRR requires you to comply 11:54:40
11 with our community standards. And those are about
12 the types of content that you may or may not --
13 more so may not -- upload onto Facebook.
14 So content insofar as what type of
15 content you can post or content insofar as what 11:54:59
16 content we collect and what we will use with it in
17 the -- or how we can use that in the context of the
18 data use policy.
19 So, hopefully, that gave you a little bit
20 more color. But if we're getting specific to like 11:55:15
21 is there a -- a heading content and information, I
22 don't remember. I would need to take a look.
23 But, hopefully, that gives you more
24 clarity. On how content can be used depends on the
25 context of the conversation or of the question of 11:55:31

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1 | which you haven't provided any. 11:55:34
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2 MR. BLUME: Ready for a break, David?

3 MR. KO: Almost.

4 Q. (By Mr. Ko) It absolutely does. Thank
5 you. Thank you, Ms. Hendrix, it absolutely does. 11:55:41

6 Let me just ask you a few follow-up questions.

7 This is -- it's exactly what I was just trying to
8 get -- get at.

9 You -- you've responded that you
10 understood that content and information included 11:55:51
11 information that Facebook collects and -- and --
12 and what Facebook will use with it and how Facebook
13 can use that in the context of the data use policy.

14	Do you recall -- do you recall that	
15	answer a moment ago?	11:56:05

16 A. I was just trying to give you examples of
17 what it could mean, if it all just depends on the
18 context of the location by which the word "content"
19 and/or "information" is. So I don't even think my
20 response is helpful. 11:56:18

21 Q. Well, it was helpful to me.

22 So in -- in the context of the SRRs, is
23 it fair to say that content and information
24 includes the type of information that Facebook
25 collects about a user? 11:56:37

1 MR. BLUME: Objection. Form. 11:56:41

2 THE DEPONENT: I -- again, I -- I need to
3 see the section of the SRR that you're referring
4 to. Like there -- the data use policy is the
5 primary document which has been referred to as the 11:57:00
6 privacy policy that -- that is there to tell you
7 what do you collect and how is the information
8 used.

9 So in the actual SRR, I would need to --
10 you know, if you don't mind showing me, like the 11:57:13
11 sentence that you're seeing that's causing you to
12 ask me that question. But it's just -- I'm not
13 able to go further and speculate unless -- unless I
14 knew what you were talking about. And I frankly
15 don't. 11:57:31

16 Q. (By Mr. Ko) In the data use policy, as
17 you described, it -- it governs the types of -- or
18 it governs how Facebook collects user information
19 and how it is used.

20 Are there provisions in the data use 11:57:48
21 policy, as a general matter, that deal with content
22 and information, or -- or do you not know one way
23 or the other?

24 MR. BLUME: Objection. Beyond the scope.
25 Form. 11:58:01

1 THE DEPONENT: The data use policy 11:58:02
2 absolutely discusses what information we collect
3 and how that information can be used. It also
4 helps you learn how you can control your
5 information. 11:58:15

6 And -- and, yes, in the SRR, there are
7 disclosures to people about being careful about
8 what they share, for example, with their friends.
9 Because their friends could, you know, use that
10 information, so to be very careful. 11:58:30

11 So there -- there is -- that is
12 refreshing my memory of it, a section within the
13 SRR, to take you -- us back to where you were
14 going.

15 MR. BLUME: All right. Let's -- we've 11:58:41
16 been going an hour and 20 minutes.

17 MR. KO: Thank you for that --

18 MR. BLUME: Let's take a break, please.

19 THE DEPONENT: I need a break.

20 MR. KO: Sure. We can take a break. 11:58:47
21 Thank you.

22 (Discussion off the stenographic record.)

23 THE VIDEOGRAPHER: Sure. We are off the
24 record. It's 11:58 a.m.

25 (Recess taken.) 11:59:34

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1 THE VIDEOGRAPHER: We're back on the 12:15:07
2 record. It's 12:15 p.m.

3 Q. (By Mr. Ko) Ms. Hendrix, welcome back
4 from the break.

5 We were talking a moment ago about the 12:15:18
6 SRRs and the DUPs. With respect to the former, the
7 SRRs, at -- at any point in time every Facebook
8 user in the United States is subject to the same
9 SRR, correct?

10 A. Yes, that's correct. 12:15:39

11 Q. And at any point in time every Facebook
12 user in the United States is subject to the same
13 DUP or data use policy, correct?

14 A. That's correct.

15 Q. And these contracts and policies, as 12:15:54
16 we've discussed before, have been subject to
17 various changes over time.

18 But put another way, there was only one
19 operative SRR at a time, correct?

20 A. Yes. There's just been the one agreement 12:16:15
21 with users who agree to use the service and not
22 two.

23 Q. And there was only one operative DUP data
24 use policy at a time, correct?

25 A. That's correct. We have terms and 12:16:33

1 privacy policy. The term -- the terms and privacy 12:16:35
2 policy, the names having evolved, but just those
3 two.

4 Q. So in -- in 2013, for example -- let's
5 pick a point in time -- the operative SRR at the 12:16:48
6 time was a contract that Facebook had with every
7 single Facebook user in the United States; is that
8 correct?

9 A. Yes.

10 Q. And same question with respect to the 12:17:02
11 DUP.

12 In -- in 2013, to pick up a time --
13 illustrative time example -- there was only one
14 data use policy that was operative and applicable
15 to a user at that time for every user in the 12:17:18
16 United States, correct?

17 A. Yes.

18 Q. And this would be true for the entire
19 time period from January 1st, 2000 --
20 January 1st, 2007, to present -- correct? -- there 12:17:30
21 only one operative SRR and one operative DUP,
22 correct?

23 A. Yes.

24 Q. And there was never a time period in
25 which there was more than one SRR that would be 12:17:42

1 applicable to a particular user, correct? 12:17:47

2 A. That's correct.

3 Q. And similarly, there was never a time,

4 from January 1st, 2007, to present, when there was

5 more than one DUP applicable to a particular user, 12:18:01

6 correct?

7 A. That's -- that's correct.

8 What do you mean by "applicable"?

9 Q. Only one contract or policy that governed

10 Facebook's relationship with users. 12:18:25

11 A. Okay. So yes, I -- I don't need to

12 correct my prior responses.

13 Q. Ms. Hendrix, are you familiar with the

14 settings that Facebook made available to its users?

15 MR. BLUME: Objection. Form. 12:18:48

16 THE DEPONENT: What settings are you

17 referring to?

18 Q. (By Mr. Ko) Just to help -- fair enough.

19 I'm going to orient you to topic 3.

20 In topic 3, there's a description as to 12:18:59

21 the privacy and app settings.

22 A. Okay. Yes. Thank you.

23 Q. So are -- are you here today to testify

24 on behalf of Facebook as to the development and

25 revisions of those particular settings? 12:19:23

1 A. Yes, how they've -- how they're developed 12:19:32
2 and the processes for developing them.
3 Q. Are you specifically familiar with the
4 privacy settings?
5 A. Yes. 12:19:46
6 Q. And what are they?
7 MR. BLUME: Objection. Form.
8 THE DEPONENT: Well, they -- the privacy
9 settings can be for your content that you're
10 uploading to Facebook. So to the extent that we 12:19:59
11 provide you with the ability to have a privacy
12 setting attached to a given piece of content, then
13 there's those types of privacy settings. And then
14 there's the application settings.
15 Q. (By Mr. Ko) So I assume then you're 12:20:19
16 familiar with -- with app settings or application
17 settings?
18 A. Yes.
19 Q. What is the distinction between privacy
20 settings and application settings? 12:20:29
21 A. Well, the privacy settings relate to and
22 are relevant to your app settings. So you've got
23 your privacy settings and then a subset of those
24 settings are settings that you can apply to your
25 use of the Facebook platform applications. 12:20:50

1 Q. So the two are related, correct? 12:20:56

2 A. Yes, that's correct.

3 Q. And as you said, the two are relevant to
4 each other, correct?

5 A. Yes. 12:21:13

6 Q. And let me try and -- and characterize
7 what I think -- and you're more than free -- and I
8 welcome edits to this characterization or revisions
9 to this characterization.

10 But in thinking about the user privacy 12:21:28
11 settings, it occurred to me that they -- they more
12 or -- or they reflect the control that Facebook
13 allowed users to try and restrict or limit what
14 information related to the user or their friends
15 were being shared; is that a fair characterization? 12:21:45

16 A. The friend element of your description is
17 confusing because I can't control my friend's
18 privacy settings.

19 Q. Well, for now, let's -- let's eliminate
20 the friend -- the user's friend from that. 12:22:07

21 So is it fair to say that the privacy
22 settings reflect the control that Facebook allowed
23 its users to try and restrict or limit when -- what
24 information related to the user was being shared.

25 Do you agree with that statement? 12:22:30

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1 A. I would characterize it more as what 12:22:32
2 information the user could tell Facebook that they
3 wanted to be displayed.

4 So for example, you might set your post
5 to publics or everyone, or you might set your post 12:22:46
6 to friends of friends, any custom network, or just
7 to only me.

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8           So there's -- there's a number of
9 settings. It just depends on what the context is
10 of -- of what we're talking about. 12:23:01
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11	Q. That's helpful.
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12 Let's go with how you characterize it
13 and, in particular, the aspect of your response
14 that said "displayed."

15	So it's your testimony that the privacy	12:23:16
16	settings primarily governed how a Facebook user	
17	could control what information was being displayed	
18	on her or his Facebook profile; is that correct?	

19 MR. BLUME: Objection.

20 THE DEPONENT: I would describe it as the 12:23:42
21 privacy settings to the extent there is a privacy
22 setting attached to the information. So for
23 example, your name is permanently public. Like you
24 don't hide your name.

25	But to the extent there's a privacy	12:23:55
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1 setting and it -- then the user has the choice to 12:23:57
2 use that setting. And depending what him, her or
3 them would like to do, they will set it as public
4 or to just their friends, or only to themselves,
5 for example. 12:24:17

6 Q. (By Mr. Ko) Or to a -- a custom
7 audience, right?

8 A. Right. If there's a custom network that
9 they've created, or something like that.

10 Q. Would it be accurate to say the privacy 12:24:34
11 settings -- well, remember how earlier I had asked
12 about whether or not the privacy settings related
13 to what information a user would want to share or
14 restrict about themselves. And -- and I want to
15 focus in on the -- the -- the share aspect of it. 12:24:52

16 Is there any part of the privacy settings
17 that reflect what information could be shared or
18 restricted by a particular user?

19	A. What do you mean by "shared"?
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20 Q. Well, let me ask you, because you said -- 12:25:11
21 in response to the -- the question that I had
22 asked, you had talked about what a user would
23 display.

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24         In what context or what -- what do you
25         mean when you say display? 12:25:24
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1 terms? 12:26:40

2 A. It depends on the context of the use of

3 the term "platform."

4 Q. Can we agree that the platform is --

5 let's -- let's start with the context of the 12:26:53

6 Facebook platform.

7 Does that help or do you need more --

8 A. Not quite.

9 Q. -- or --

10 A. Not quite. 12:27:03

11 Q. So can you describe to me what the

12 different versions of the platform you're thinking

13 of, or the various versions of the -- of the

14 platform you're thinking of?

15 A. Well, some people will refer to -- as the 12:27:14

16 Facebook app or website as the Facebook platform.

17 I, in my years working at the company, when I hear

18 the word "platform," I am biased in the sense that

19 I've always worked on our platform technology

20 for -- to mean the -- the -- the Facebook platform 12:27:33

21 that we -- that we launched in May of 2007.

22 So that's why it's important for us to be

23 on the same page with respect to the word

24 "platform." Because there were -- if we're just

25 going now back to the set of technologies that 12:27:49

1 allowed third parties, you know, to connect with 12:27:52
2 the Facebook app, that -- that's the platform as I
3 am speaking to, and those apps could be either on
4 Facebook or off of Facebook, depending on where the
5 developer wanted to host them. 12:28:07

6 Q. Okay. Given -- given that distinction
7 between on and off platform, do the privacy
8 settings deal with both on and off platform
9 activity, as you described?

10 A. So the privacy settings apply to the 12:28:27
11 settings that you're setting for the content you're
12 uploading to the Facebook service. Then there's
13 also privacy settings related to apps. And those
14 settings can be used with respect to the
15 information that you share with third-party 12:28:44
16 applications or -- or that otherwise make available
17 through the platform.

18 Q. And so those -- that particular setting
19 or settings, those are the app settings, correct?

20 A. App settings, yes. There -- those would 12:29:04
21 apply to your use of the Facebook platform, as I
22 just described my -- my understanding -- like
23 the -- the platform technologies.

24 Q. And with respect to both of these
25 settings, which as you described were related to 12:29:23

1 each other, would it be fair to say that 12:29:27
2 collectively these settings are the controls
3 Facebook enacted to try and give Facebook users
4 control of what information they could share on
5 Facebook? 12:29:41

6 MR. BLUME: Objection. Form.

7 THE DEPONENT: Yeah. I -- I wouldn't say
8 try. They always have given people control over
9 their content.

10 Q. (By Mr. Ko) Okay. Collectively, is it 12:29:55
11 fair to say that these settings are the controls
12 Facebook enacted to give users control of what
13 information they could share on Facebook?

14 A. Not quite, because -- well, I won't
15 explain my problem with your -- your question. 12:30:12
16 I -- I don't understand it.

17 Q. Okay. Well, I'm trying to get to a point
18 where we can come to a common understanding. So I
19 got -- I eliminated the portion that you were
20 uncomfortable with when I removed "try" from my 12:30:24
21 question.

22 So what are the other aspects of my
23 question that are unclear?

24 A. Please restate.

25 Q. Collectively, is fair to say that the 12:30:36

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1 privacy and app settings are the controls Facebook 12:30:39
2 enacted to give users control of what information
3 they could share on Facebook?

4 A. No.

5 Q. What -- what -- what are -- are there any 12:30:52
6 other settings that I'm missing here?

7 A. The settings don't necessarily -- like
8 it's just -- I'm confused over your question.

9 So like I could go and post hate speech
10 today, but I have agreed not to do that. So that's 12:31:08
11 the SRR, not a privacy setting.

12 Q. Okay. Can you unpack that a little bit?

13 A. No.

14 Q. You can't.

15 Because you just gave me an explanation, 12:31:24
16 so I -- I'm trying to figure out what you mean by
17 that.

18 A. I'm -- I mean what I said. And I even
19 gave an example.

20 Q. Okay. When you -- your -- you said the 12:31:35
21 settings don't control over a hate -- a hate speech
22 post that you would make.

23 And -- and so why -- why is that?

24 A. Privacy settings are for what you want to
25 be visible to people who use Facebook, you know. 12:31:59

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1 And then -- then there's app settings on -- on -- 12:32:07
2 that -- you know, depending on the relevant period
3 would apply to what you want to enable to be shared
4 through the Facebook APIs.

5 So that's why your question -- and I used 12:32:23
6 the hate speech example -- none of those settings
7 with the exception of some of the ability for us to
8 prevent certain types of content from even being
9 uploaded, such as child exploitation kind of
10 content, wherever technically possible, we try to 12:32:40
11 prevent that content at the technical level, or get
12 it down ASAP. But those settings don't control the
13 content that I am publishing. They control who can
14 see it and where it can flow through the APIs.

15 Q. Thank you. 12:33:06

16 So with respect to -- let's -- let's --
17 let's go to the app settings.

18 Is it fair to say that the app settings
19 governed the controls Facebook enacted to try
20 and -- well, to give Facebook users control of what 12:33:22
21 information could be shared on Facebook through
22 Facebook APIs?

23 A. That question doesn't make sense.

24 Q. You said that the way in which third
25 parties could access information about a -- about a 12:33:40

1 Facebook user was through APIs, correct? 12:33:43

2 A. I did not say that.

3 Q. Okay. Well, let me ask it more directly.

4 Facebook APIs were the way -- or

5 accessing a Facebook API or APIs was the way in 12:33:58

6 which a third-party app developer could access

7 information about a Facebook user, correct?

8 MR. BLUME: Objection.

9 THE DEPONENT: Just the way that you're

10 characterizing this is just not the way that 12:34:19

11 technically it works.

12 So for example, if I'm a developer of a

13 third-party applicant and I want to navigate to

14 John Smith's profile manually, I can go and see

15 that. That's why I don't want to narrow. The 12:34:32

16 developer community can actually -- although

17 they're human -- so they can go to my profile, or

18 any profile, and see what information is public.

19 Certain information is always public and

20 then other information is not public. But that's 12:34:47

21 because the user has chosen to set their settings

22 in a -- to only me, for example.

23 So developers, of course, can get

24 information subject to the controls that we have in

25 place through the platform. But that -- those -- 12:35:04

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1      that -- the data will only be accessible through      12:35:08
2      the APIs to the extent that users didn't choose to
3      not make their data available, for example, by
4      opting out of the platform or by -- well, that --
5      we should end there.      12:35:25
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6 Q. (By Mr. Ko) And I wasn't trying to be
7 exhaustive in my question. And I apologize if I
8 wasn't clear -- unclear.

9	One way in which a third-party app	
10	developer accesses information on a particular user	12:35:36
11	is through an API through the Facebook platform, or	
12	in connection with the Facebook platform, correct?	

13 A. If the user chooses to share that
14 information and make it accessible through the
15 platform, for example, by not opting out. 12:35:54

16	Q. Yes or no?
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17 A. I answered your question.

18 Q. So if the user -- if the user chooses to
19 share the information and make it accessible
20 through the platform, one way in which a 12:36:12
21 third-party developer could access information
22 about that particular user is through an API,
23 correct?

24 A. And -- yes, subject to the fact that the

25 platform has changed and we're on the 13th-some 12:36:28

1 version. So it's -- it's -- how it -- how it works 12:36:30
2 depends also on when you're asking me.

3 So like, you know, the -- the move from
4 version 1 to version 2, there's no longer friend
5 permissions available. So it's all about -- so the 12:36:46
6 friend settings wouldn't apply, right.

7 Q. When you said a moment ago, "if the user
8 chooses to share that information," through what
9 mechanism can that user decide to choose to share
10 that information? 12:37:04

11 A. Well, they choose to create a Facebook
12 account. Then they choose to decide what they want
13 to fill in and complete. They choose what they
14 want to share. They choose who they want to share
15 it with. They choose whether they want to use the 12:37:19
16 platform application. And historically, they've
17 chosen whether they want to allow their information
18 to be shared by their friends who install.

19 There's just a series of choices. It all
20 depends on the choices each individual user makes, 12:37:36
21 and then the Facebook product respects those
22 privacy settings.

23 Q. Back to the information that they choose
24 to share.

25 How do they decide that? 12:37:48

1 A. I can't speak for the -- each individual 12:37:52
2 user. I -- I can tell you how I choose to share
3 content.

4 Q. I -- I -- I understand the confusion.

5 Technically speaking, with respect to a 12:38:01
6 user's interaction on the Facebook platform, is
7 there a tool or a setting that they can select in
8 determining what to share with a third party?

9 MR. BLUME: And objection, to the extent
10 this relates to topic 6, and not the communication 12:38:22
11 but the technology. I would instruct her not to
12 answer. You have a witness on that coming.

13 MR. KO: It's not related to topic 6,
14 just for your edification.

15 MR. BLUME: All right. Well, what topic 12:38:38
16 does it relate to then?

17 MR. KO: Topic 3, privacy and app
18 settings.

19 MR. BLUME: You asked about technology,
20 so that's what confused me. 12:38:45

21 Q. (By Mr. Ko) Ms. Hendrix, what were the
22 settings that a user could utilize to control the
23 information that they wanted to share?

24 A. And with who and where?

25 Q. Let's start with the third-party app 12:39:08

1 developer. 12:39:11

2 A. And what is the relevant period?

3 Q. I already instructed you that unless I

4 specify otherwise, I'm talking about the entire

5 time. 12:39:23

6 A. Well --

7 MR. BLUME: Objection. Scope.

8 THE DEPONENT: From 2007 to 2022 today,

9 those settings have changed.

10 So for example, there's not a setting for 12:39:35

11 you to specify which piece of information you're

12 comfortable -- that you've shared with your

13 friends, that's visible to your friends on

14 Facebook, that you're comfortable with them sharing

15 with third-party applications, so that those apps 12:39:50

16 can improve and socialize the user's experience.

17 For example, in a birthday app, I might

18 say, sure, you can set -- you can -- I don't care

19 if my friends take my birthday to a third-party

20 app. That setting is no longer in -- exists 12:40:00

21 because that's no longer technically possible

22 through the product.

23 But I also might not be comfortable

24 sharing my photos, my private photos. So I might

25 check to say, nope, you can share my birthday that 12:40:15

1 I've set to private, but you can't share my photos 12:40:18
2 that I've set to private.

3 Q. (By Mr. Ko) Take a look at the notice
4 again, and on page 9 of the notice, there is a
5 reference to "Users' Privacy Settings." 12:40:36

6 Do you see that? That would be
7 paragraph 22.

8 A. I see what it says.

9 Q. Do you agree that a "'Users' Privacy
10 Settings' means the audience selectors on the 12:40:59
11 Facebook app that purported to allow Facebook users
12 to control with whom their information was shared"?

13 A. I agree that's -- that that is what it
14 says. But in the context of audience selectors,
15 like what -- like -- does that mean to you, like 12:41:19
16 per object privacy, like what I'm sharing on
17 Facebook and then whether I'm allowing that content
18 to be shared off of Facebook.

19 Generally, this -- the -- this could be
20 generalized into -- into like -- I mean, these, I 12:41:37
21 think, are your words. But I hope I'm clear.

22 Like every user has a choice with respect
23 to using the product. And then to the extent we
24 offer privacy controls, they can choose whether to
25 use them. Those controls include whether to use 12:41:54

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1 the Facebook platform or whether to, for example, 12:41:58
2 opt out.

3 So yes -- I mean, at all times people are
4 controlling their information, to the extent they
5 choose to use Facebook. 12:42:12

6 Q. How would you describe to the Court what
7 your understanding of users' privacy settings
8 consist of?

9 A. I just described how it works and so
10 that's my response. 12:42:30

11 I mean, going back to the SRR, we tell
12 people, keep in mind that what you share and make
13 visible to your friends means that you are -- at
14 some point in time they could be doing something
15 with that information that you're not aware of, 12:42:42
16 that those disclosures have always been in place,
17 just to tell people to be careful about the content
18 that they upload and to be aware of the settings
19 that they're selecting.

20 That's why we have all of the different 12:42:55
21 educational resources on top of the data use policy
22 in the SRR that really, really help you understand
23 that these decisions you're making have potential
24 consequences, but that you ultimately control the
25 audience until you choose to share. 12:43:14

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1 And then if you chose to share it to 12:43:16
2 everyone, or choose to share it with your friends,
3 then technically those people could do something
4 that you don't desire them to do.

5 But ultimately, the settings is the -- 12:43:27
6 your decisions on the visibility of that content,
7 including whether you want to enable that content
8 to be used in the context of third-party
9 applications.

10 Q. Great. 12:43:45

11 And that -- and that would be both the
12 privacy and app settings that we're -- we've been
13 talking about, correct?

14 A. Privacy and app settings are the specific
15 controls. But then the SRR, the data use policy, 12:43:56
16 the help center, all of the privacy checkups and
17 all of those are also a -- a part of the overall
18 user experience so that people have that
19 understanding of the -- of how they choose to use
20 those settings. So it -- they all interrelate. 12:44:12

21 Q. What -- what organization or
22 organizations at Facebook were responsible for
23 developing the privacy and app settings?

24 A. So this would go back to my earlier
25 point. 12:44:32

1 It's a team of teams so you need 12:44:33
2 engineers to build. You need product managers to
3 drive. You need legal to advise. You need policy
4 to advise. You need comms to advise. You need
5 platform marketing teams to advise. 12:44:42

6 You need to just ensure that all of these
7 relevant stakeholders are a part of the process and
8 that can -- they're not at the table all the time
9 always together, but they all are a part of -- and
10 part -- and the privacy program managers. The 12:44:58
11 privacy review teams. Like they're all a part of
12 the teams that understand what it is that we want
13 to build and how it's going to work and how we're
14 going to communicate that. And so it's a team of
15 teams. 12:45:14

16 Q. I understand and would expect there to be
17 a lot of organizations and teams that were part of
18 it.

19 So can you identify which teams had the
20 primary responsibility for developing the privacy 12:45:25
21 and app settings?

22 MR. BLUME: Objection.

23 THE DEPONENT: So the platform product
24 team would be more closely involved in the app
25 setting development. And then because -- you know, 12:45:40

1 strategists. Like it's -- like how you get 12:47:05
2 involved all depends on the nature and scope of
3 what is shipping and what is -- what is being
4 launched.

5 So we launched a fundraiser API at one 12:47:14
6 point in time. And so maybe the team that works on
7 social good, in helping people really, you know,
8 complement the mission of connecting people and
9 helping people. For example, like using the -- the
10 API to help raise funds. 12:47:32

11 Q. (By Mr. Ko) Earlier today you were able
12 to identify organizations that had both -- that had
13 primarily responsibility or -- or were most
14 important to the process of drafting the SRRs and
15 the DUPs and the platform policies. 12:47:55

16 Do you recall that?

17 A. I do.

18 Q. I'm going to ask you that same type of
19 question with respect to the privacy settings and
20 the app settings. 12:48:06

21 Can you identify which Facebook
22 organizations have the primary responsibility for
23 developing the privacy and app settings?

24 MR. BLUME: Objection.

25 THE DEPONENT: It would be the same teams 12:48:24

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1 that work on the -- the -- so we don't pull in an 12:48:26
2 engineer to help write the terms of service. But
3 an engineer and product team member will need to be
4 very deeply involved in understanding how we're
5 describing how things work because they're the ones 12:48:40
6 who are ensuring us that what we say is consist --
7 in the data use policy, for example, is consist
8 with what they've built --

9 So it is just like nothing can be done in
10 a vacuum and it's -- I wouldn't say that there's 12:48:53
11 ever a finite list. I always joke around that as
12 the person who's been responsible for developing
13 the Facebook platform policies since 2009, I will
14 accept a proposed policy change from a member of
15 the culinary team. 12:49:17

16 So we don't say you're not included just
17 because -- like there's no finite list. There's
18 primary people and so that's the -- the way that we
19 work at this company.

20 Q. (By Mr. Ko) That's helpful. And I 12:49:30
21 just -- I -- I want you to try and listen to my
22 question as closely as you can, because I was just
23 actually asking you a yes-or-no question. And I
24 appreciated the explanation.

25 But it -- it sounds like the answer will 12:49:40

1 be no. But my -- my question was, can you identify 12:49:42
2 which Facebook organizations have the primary
3 responsibility for developing the privacy and app
4 settings.

5 It sounds like your answer is no, you 12:49:55
6 cannot; is that fair?

7 A. No, it is not fair. So if you want me
8 to --

9 (Simultaneously speaking.)

10 Q. (By Mr. Ko) So it's -- 12:50:00

11 A. -- just say primary -- because you had
12 said finite.

13 Q. (By Mr. Ko) No, I didn't. Let me -- let
14 ask again.

15 Can you identify, yes or no, which 12:50:08
16 Facebook organizations have the primary
17 responsibility for developing the privacy and app
18 settings, yes or no?

19 MR. BLUME: Objection.

20 THE DEPONENT: What do you mean by 12:50:18
21 "developing"?

22 Q. (By Mr. Ko) Okay. Do you have an
23 understanding of what the term "developing" means?

24 MR. BLUME: Objection.

25 THE DEPONENT: Well, yes. But are you 12:50:31

1 saying developing -- 12:50:32

2 Q. (By Mr. Ko) What is -- what is that
3 understanding --

4 A. -- actual product or -- could you please
5 not talk over me. 12:50:34

6 MR. BLUME: Hold on. Let her -- let her
7 finish, please.

8 THE DEPONENT: Are you saying like
9 development insofar as actually building, writing
10 the code, or are you talking about developing as 12:50:44
11 insofar what is the content. What is the text.
12 What is the control. Why do we want the control
13 should we have the control.

14 It all depends on what we're talking
15 about. So we can't just box it into a -- 12:50:56

16 Q. (By Mr. Ko) Let's start with the latter.

17 A. -- single piece.

18 Q. Let's start with the latter.

19 A. I don't remember what my latter was.

20 Q. Your latter was developing insofar as the 12:51:06
21 content, what is the text. What is the control.
22 Why do we want the control. Should we have the
23 control.

24 That's what I'm referring to.

25 A. That would be our privacy XFN, which 12:51:18

1 consists of that -- that product teams will go to 12:51:23
2 or that will pull teams in. So that's legal.
3 Privacy program managers. Policy product
4 counselors.

5 And then naturally you need the product 12:51:35
6 teams because they have a vision for their product
7 and how they want it to be used and what they want
8 to build. So it's very collaborative.

9 Q. And with respect to the aspect of
10 development as it relates to engineers, can you 12:51:58
11 answer the question of what teams or organizations
12 at Facebook have the primary responsibility for
13 developing the privacy and app settings?

14 MR. BLUME: Objection. Beyond the scope
15 for designated topics. 12:52:15

16 THE DEPONENT: It all depends. So for
17 example, a research team member might conduct a
18 small study and a focus group to make sure people
19 understand these settings. And they might conclude
20 that they could be improved upon or that we should 12:52:31
21 do things such as -- maybe I think Pratiti, when I
22 spoke with her, it was the research team -- which
23 like some researchers are embedded within their
24 product teams and then there's a research teams as
25 well. But it was an individual research team that 12:52:49

1 was the catalyst for the development of the privacy 12:52:51
2 checkup tool.

3 So, again, it all just depends on who's
4 proposing it, going back to my annoying culinary
5 comment. 12:53:01

6 Q. (By Mr. Ko) So there was a research team
7 that had its hand in the development of privacy and
8 app settings; is that accurate?

9 MR. BLUME: Objection.

10 THE DEPONENT: It is accurate to say that 12:53:17
11 we rely on internal research employees to help us
12 ensure that we are -- that people understand our
13 terms and the products, including the settings.

14 Q. (By Mr. Ko) And so this research team,
15 as you indicated, conducted studies, correct? 12:53:34

16 MR. BLUME: Objection.

17 THE DEPONENT: So there are researchers
18 at Facebook and the -- where they -- and who they
19 report in to is different, the way that it -- that
20 that works, so... 12:53:49

21 Q. (By Mr. Ko) I'm -- I'm not asking about
22 who they report to. I just simply asked, this
23 research team conducted studies; is that correct?

24 MR. BLUME: If it doesn't involve
25 reporting lines, then beyond the scope. 12:54:02

1 MR. KO: Mr. Blume, topic 3 asks for an 12:54:10
2 overview of the process for developing privacy or
3 app settings.

4 Okay. Stop with those objections.

5 Q. (By Mr. Ko) So I'll ask you again, 12:54:19
6 Ms. Hendrix.

7 This research team conducted studdies; is
8 that correct?

9 A. Well, I don't know which research team
10 you're talking about. Like -- 12:54:27

11 Q. I'm talking about --

12 A. -- what I'm trying to tell you is that --

13 MR. BLUME: Let her finish, please.

14 THE DEPONENT: I'm trying to tell you
15 that, like the research -- researchers at our 12:54:34
16 company -- and I can -- I -- are -- some of them
17 are on like a team. And then some are embedded
18 within their team.

19 So a product manager might say, hey, I
20 have an idea for updating an app setting or -- or a 12:54:48
21 privacy setting. And so could you help me conduct
22 research into whether or not and how we could and
23 might develop this setting, if it's new, or ensure
24 that the setting is understood.

25 So that's speaking to -- or, you know, 12:55:09

1 just different teams, like a -- a colleague could 12:55:14
2 have an experience and say, hey we might want to
3 improve or this, or something, you know. Everybody
4 can have ideas.

5 Q. (By Mr. Ko) I'm looking at the 12:55:26
6 transcript and at 12:52 you gave me an example, in
7 response to your confusion over the word
8 "development."

9 You gave me an example of what certain
10 groups and teams did at Facebook. And one example 12:55:40
11 you gave was that "a research team member might
12 conduct a small study and a focus group to make
13 sure people understand these settings that might
14 improve or be improved upon."

15 With respect to that example, and no 12:55:58
16 other example, are you talking about the
17 settings -- when you refer to the settings, you're
18 talking about the privacy and app settings,
19 correct?

20 A. In my example, I was talking about the 12:56:13
21 privacy checkup tool.

22 Q. Okay. Good.

23 So in connection with the privacy checkup
24 tool, Facebook did research and conducted the
25 studies, correct? 12:56:29

1 MR. BLUME: Objection. 12:56:35

2 THE DEPONENT: I know that from my
3 conversation with Pratiti, that there was research
4 into -- well, now I'd -- I'd have to look at my
5 notes, if that's okay. 12:56:50

6 Q. (By Mr. Ko) Oh, yeah. Please -- please
7 do so.

8 Again this was a yes-or-no question. You
9 gave an example and I'm just trying to clarify and
10 understand your response. 12:57:02

11 A. I don't agree with you that it was a yes
12 or no, but that doesn't really matter.

13 So I just want to see if I have that.

14 MR. BLUME: Can you ask the question
15 again, David, just so we're -- the record is clear. 12:57:32

16 MR. KO: Yeah. But I want to wait until
17 she reviews what she needs to review so I don't
18 have to ask it again.

19 MR. BLUME: Fair enough.

20 THE DEPONENT: Okay. I -- I think I 12:57:45
21 found the example -- I did find the example that I
22 was referring to.

23 Q. (By Mr. Ko) This is a yes-or-no
24 question.

25 Do you understand that? 12:57:53

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1 They're -- I'm not testifying that they're involved 12:59:04
2 in every single settings change, or text or
3 wording.

4 It's where appropriate. And depending on
5 the catalyst for -- like because, again, product 12:59:12
6 team members will pull you in. Researchers will
7 decide they want to conduct research on their own
8 initiative.

9 But, yes, there are times when
10 researchers are pulled in to review app -- and 12:59:23
11 conduct studies into app settings and privacy
12 settings, yes.

13 Q. (By Mr. Ko) And, Ms. Hendrix, this is
14 just, you know -- you don't have take my advice for
15 you to answer however you would like to -- to 12:59:36
16 answer.

17 But this will go a lot faster if you just
18 answer the yes-or-no questions yes or no. And
19 you're free to say no. You can say no.

20 MR. BLUME: She -- she -- 12:59:45

21 MR. KO: And that was --

22 (Simultaneously speaking.)

23 MR. BLUME: She -- she --

24 MR. KO: Hold on. Let me finish. Let me
25 finish, Mr. Blume. 12:59:49

1 And if your answer is no, that's fine. 12:59:50
2 But I'm just making a suggestion to speed things up
3 for both of us. Otherwise, we're going to be here
4 for a really long time. I was hoping that this
5 wouldn't take long. But if -- if you would like to 01:00:00
6 keep not answering yes-or-no questions --
7 MR. BLUME: Okay.
8 MR. KO: -- with yes or -- neither yes
9 nor no, then you're free to do that. But I'm just
10 making a suggestion. 01:00:14
11 And with that, at 1:00 o'clock, I
12 promised that -- you can --
13 MR. BLUME: And I'll make --
14 MR. KO: Yeah. Go ahead.
15 MR. BLUME: Can I make a suggestion? 01:00:19
16 The fact is, your questions are unclear
17 and vague. And she's trying to clarify the record
18 to make it accurate. It's not yes or no the way
19 you want. She's made that clear.
20 So I suggest -- my suggestion is, if your 01:00:29
21 questions become more precise, then perhaps yes or
22 no may be appropriate. But the imprecision is
23 what's causing her to have to explain what happen
24 what -- what the answers are.
25 MR. KO: I don't know how to get more 01:00:41

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1 precise than using the answers that you provide, 01:00:42
2 Ms. Hendrix. So -- but it is 1:00 o'clock and we
3 should break for lunch, as I promised we would.
4 THE VIDEOGRAPHER: Okay. We're off the
5 record. It's 1:00 o'clock p.m. 01:00:54
6 (Recess taken.)
7 THE VIDEOGRAPHER: All right, everybody.
8 We are back on the record. It's 2:07 p.m.
9 Q. (By Mr. Ko) Ms. Hendrix, there was a
10 research organization or team at Facebook, correct? 02:07:14
11 A. There are people -- team -- research
12 teams and researchers on -- embedded within
13 different product teams at Facebook.
14 Q. And these research teams and the
15 researchers conducted studies, correct? 02:07:32
16 MR. BLUME: Objection.
17 THE DEPONENT: Yes, the researchers
18 conduct studies.
19 Q. (By Mr. Ko) Are you familiar with the
20 term UX or user experience? 02:07:48
21 A. Yes.
22 Q. These researcher -- research teams and
23 researchers conducted studies in connection with
24 either the UX team or the user experience, in
25 general; is that fair to say? 02:08:04

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1 MR. BLUME: I'm sorry. What topic are we 02:08:07
2 on?

3 MR. KO: Topic 3b, Rob.

4 Q. (By Mr. Ko) More importantly, I'm
5 following up on questions and, more importantly, 02:08:25
6 answers, that Ms. Hendrix gave with respect to
7 research that was done at Facebook.

8 So let me ask again, Ms. Hendrix, were
9 studies done in connection with the user experience
10 by these research teams and/or researchers? 02:08:43

11 MR. BLUME: Objection.

12 THE DEPONENT: What do you mean by the
13 user experience?

14 Q. (By Mr. Ko) I asked you -- I asked you a
15 moment ago whether or not you're familiar with 02:08:56
16 UX -- the term UX or user experience, right?

17 A. I am. I just am not sure if you are
18 familiar with my understanding.

19 Q. What is your understanding of the term UX
20 or user experience? 02:09:14

21 A. So it's generally a term that we use to
22 describe a person and their experience interacting
23 with our services.

24 Q. Were studies done by the research team or
25 researchers at Facebook in connection with a user 02:09:30

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1 or person's experience interacting with Facebook 02:09:36
2 services?

3 MR. BLUME: Objection. Time frame.

4 THE DEPONENT: From the relevant period
5 to today, there are researchers that conduct 02:09:50
6 research into users' experiences using our
7 services.

8 Q. (By Mr. Ko) And in connection with that
9 research, is it fair to say that certain studies
10 were -- were done? 02:10:07

11 A. Well, that's what I just said.

12 Q. Okay. And these studies, I believe, you
13 had referred to earlier this afternoon -- focus
14 groups.

15 Do you remember that? 02:10:21

16 A. There are certain research conducted
17 where the teams will -- like depending on the
18 research, they might use a focus group.

19 Q. So in some instances over the relevant
20 time period, there were studies done that -- by the 02:10:43
21 research team or researchers at Facebook, in which
22 they conducted or used, as you said, a focus group,
23 in connection with that study; is that fair to say?

24 MR. BLUME: Objection. You just asked
25 that and she just answered that. 02:11:03

1 Q. (By Mr. Ko) You can answer. 02:11:07

2 A. Yes.

3 Q. Is it also fair to say that studies were

4 done in connection with the user experience, as it

5 relates to privacy and app settings, that a user 02:11:18

6 could utilize?

7 A. Yes.

8 Q. Thank you.

9 Before lunch, you had referred to, I

10 believe, the privacy checkup tool. 02:11:40

11 Do you recall that?

12 A. I do.

13 Q. What is the privacy checkup tool?

14 A. It is an educational resource type of

15 tool used to ensure that people are aware of and 02:11:56

16 remind them of their pri- -- like and -- and

17 encourage them to check the settings. Because if

18 you joined Facebook in one year, you might get

19 older and want to change your settings.

20 So it's just the ability to check in with 02:12:18

21 people and remind them of the settings that they

22 have and give them an opportunity to make any

23 changes. They always have that, but that's the --

24 the motivator.

25 Q. And by "settings," I assume you're 02:12:31

1 referring to the privacy and app settings, correct? 02:12:32

2 A. Right. The privacy and app settings.

3 Q. Do you recall when the privacy checkup

4 tool was rolled out?

5 A. I'll have to check my notes. I think I 02:12:51

6 have that in my notes.

7 Q. While you check your notes, let me see if

8 this date rings a bell to you.

9 Is it 200- --

10 A. It's May 2014. 02:13:02

11 Q. Okay. Great.

12 So the privacy checkup tool was rolled

13 out by Facebook in May of 2014, correct?

14 A. Yes.

15 MR. BLUME: Objection. Asked and 02:13:17

16 answered.

17 Q. (By Mr. Ko) Was there any aspect of the

18 privacy checkup tool that disclosed to the user

19 what third-party app developers could see or obtain

20 about a user? 02:13:32

21 A. I know that it lets people know what apps

22 they have and is educating on them to see if they

23 want them to still uninstall those apps or keep the

24 apps.

25 The specifics, I don't remember, sitting 02:13:50

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1 here right now. 02:13:52

2 Q. Do you recall any part of the privacy
3 checkup tool which related to any disclosure by
4 Facebook whatsoever about what third-party app
5 developers could obtain from a particular user? 02:14:14

6 MR. BLUME: Objection.

7 THE DEPONENT: I am not sure how granular
8 it got. But it's like at a up level, our practice
9 is to point people and -- to different settings,
10 pages and stuff within the context of these tools 02:14:44
11 that we have.

12 But I don't remember specifically the
13 details for how it's evolved.

14 Q. (By Mr. Ko) And -- and is the privacy
15 checkup tool -- when you say that it -- it -- you 02:14:58
16 believe that it pointed users to different
17 settings, pages, is it your testimony that the
18 privacy checkup tool referred to and pointed to
19 users -- towards specifically the privacy and app
20 settings? 02:15:17

21 A. I said that I don't remember. But I'd be
22 surprised if, in fact, it did not. It told them
23 the scope of the information that they had shared
24 and the apps that -- that -- that they had
25 installed. 02:15:32

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1 But I don't remember specifically. 02:15:34

2 Again, I'd be incredibly shocked, given the way

3 that we have all these links to the different

4 places people can go to learn more, if it did not.

5 But that's all that I can remember, sitting here 02:15:48

6 today.

7 Q. Do you recall whether or not there was a

8 reference in the privacy checkup tool to the SRRs?

9 MR. BLUME: Objection.

10 THE DEPONENT: I don't recall. 02:16:03

11 Q. (By Mr. Ko) Do you recall whether or not

12 there was a link or reference in the privacy

13 checkup tool to the DUPs?

14 MR. BLUME: Objection.

15 THE DEPONENT: I don't recall. 02:16:17

16 Q. (By Mr. Ko) With regard to the

17 privacy --

18 A. But there's links all over.

19 Q. With respect to the privacy checkup tool

20 that was enacted and rolled out at Facebook in 02:16:29

21 May of 2014, is that tool still available today?

22 A. Yes.

23 Q. And it had -- that tool has been, I

24 assume, available to all Facebook users from

25 May of 2014 to present, correct? 02:16:43

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1 A. I don't know that to be true. I imagine 02:16:50
2 it would have been rolled out in -- in waves, but
3 I'm not sure.

4 Q. Well, what do you mean when it was
5 "rolled out in waves"? 02:17:02

6 A. Consistent with other practices, we don't
7 just turn all users live. There's times where you
8 will maintain the current experience and then ship
9 any user experience changes we want to make, and
10 then additional testing of how those changes that 02:17:26
11 we decided to make are -- are being utilized and
12 received.

13 So the -- the research doesn't begin and
14 end at the initial launch. The -- the teams would
15 be monitoring the user experience to see if we 02:17:41
16 should roll out more broadly, or before rolling out
17 more broadly make any adjustments based on the
18 initial wave. Some things are rolled out all at
19 once. But some things are rolled out in waves for,
20 like, localization purposes. 02:18:00

21 Q. And with respect to the -- the teams that
22 would be monitoring the user experience, what --
23 what teams would those be?

24 MR. BLUME: Objection.

25 THE DEPONENT: Likely, the -- largely, 02:18:23

1 the product and eng and potentially research teams. 02:18:28
2 It all depends on what change we're making would
3 factor in who would be paying most attention. But
4 largely, it would be the product, and where
5 applicable, research-related teams. 02:18:53

6 Q. (By Mr. Ko) When you said that it was
7 consistent with other practices at Facebook to roll
8 certain products or programs out in waves, could
9 you characterize for the Court to what extent it
10 was the general practice of Facebook to roll 02:19:16
11 certain programs out, relative to, as you said,
12 rolling things out all at once?

13 MR. BLUME: Objection.

14 THE DEPONENT: What is the scope of your
15 question? 02:19:40

16 Q. (By Mr. Ko) I'm just trying to get an
17 understanding and unpack your response.

18 When I asked about the privacy -- privacy
19 checkup tool being rolled out in May of 2014, you
20 said that it was likely that it was rolled out in 02:19:50
21 waves, correct?

22 A. I -- it -- I -- I mean to say, it could
23 have been. It could have also been rolled out all
24 at once.

25 Q. So then since you don't know exactly what 02:20:02

1 happened with respect to the privacy checkup tool, 02:20:05
2 but you did say it was consistent with other
3 practices at Facebook to roll things out in waves,
4 correct?

5 A. So we announced the fact of the privacy 02:20:16
6 checkup in May. It starts rolling out in August.
7 So just to be clearer on that point. I'm sorry.

8 I don't know if it was rolled out
9 specifically in waves.

10 Q. And I -- let's set aside you've made it 02:20:35
11 clear you don't recall specifically what happened
12 with respect to the privacy checkup tool. I am now
13 focusing on the portion of your response in which
14 you said that it was consistent with other
15 practices to roll things out in waves. 02:20:46

16 Do you recall that testimony; yes or no?

17 A. Yes, I recall having said that.

18 Q. And you also said and provided testimony
19 that sometimes Facebook rolled things out all at
20 once, correct? 02:21:05

21 MR. BLUME: Same objection.

22 THE DEPONENT: Correct.

23 Q. (By Mr. Ko) Can you give me an
24 understanding of -- if you know. It's fine if you
25 don't. If you know -- to what extent it was the 02:21:19

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1 general practice of Facebook to roll things out in 02:21:22
2 waves or whether it was the general practice of
3 Facebook to roll things out all at once?

4 MR. BLUME: Objection. Form.

5 THE DEPONENT: It all depends on what is 02:21:31
6 being launched. If it's like a text change, it
7 will have to be translated for the fact that it's a
8 global company. So we need to make sure that the
9 language is the right language and that can take
10 some time. 02:21:46

11 We also need to test features. We want
12 the experience to be uniform across the global user
13 experience. But we also need to know whether what
14 we've decided to test because we -- we don't always
15 want to proceed with something. So we'll test in a 02:21:58
16 given region, see how it's performing, and decide
17 whether to open it up more broadly.

18 Q. (By Mr. Ko) So it's fair to say then
19 that there wasn't one general practice with respect
20 to rolling certain programs out. 02:22:20

21 I hear you to say that sometimes it was
22 rolled out in waves and sometimes it was rolled out
23 at once. It just depends; is -- is that correct?

24 In other words, there was no predominant
25 practice as -- as to those two methods in rolling 02:22:34

1 out a certain product, correct? 02:22:37

2 A. So to take us a step back, the teams that
3 are involved in the development or revisions to
4 features, functionalities, terms, documents, they
5 will collaborate on the launch plan. We have to go 02:22:50
6 to market plans. And everyone will align on what
7 is the right approach for the given thing that is
8 being updated and tested, for example.

9 So it's -- there's a process by which we
10 make those decisions. 02:23:11

11 Q. Was there a predominant practice as to
12 how Facebook rolled certain programs out?

13 MR. BLUME: Objection. Form.

14 THE DEPONENT: It all depends, like I
15 said. So I've described the way that we approach 02:23:26
16 it. It's the process of the teams that are all
17 involved in, you know, the announcements of the
18 launch.

19 Using privacy checkup as an example,
20 there will have been the teams that I referred to 02:23:38
21 earlier, that will align on the -- the content of
22 that announcement. And those similar teams will
23 align on the timing for launching those things. So
24 it all just again depends on which team is
25 launching what thing. 02:23:55

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1 Q. (By Mr. Ko) So based on your response, 02:23:57
2 is it fair to say, and would you agree with me,
3 that there was not a predominant practice as to how
4 Facebook rolled certain programs out?

5 A. No. 02:24:08

6 Q. Okay. Well, which is it? Because you're
7 saying that -- you claim that it all depends,
8 right?

9 In certain circumstances there -- there
10 are situations in which Facebook rolled things out 02:24:18
11 in waves, and in certain circumstances there are
12 situations in which Facebook rolled things out all
13 at once.

14 Did I understand your testimony
15 correctly? 02:24:31

16 A. I believe that's what I said. But like,
17 for example, using the SRR and the data use policy,
18 you know, that's not an example of a wave that we
19 would do. It -- it just all depends.

20 Q. Are you familiar -- 02:24:53

21 A. But there's always a process.

22 Q. Are you familiar with privacy shortcuts?

23 A. Yes, I am.

24 Q. What is -- what is privacy shortcuts?

25 A. So that was launched in December of 2012, 02:25:14

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1 and it complements the privacy tour that users -- 02:25:16
2 new users go through in their new -- in the user
3 signup flow and it -- it's right -- it's -- it's
4 next to the home button. But it's just an ability
5 to complement that privacy tour and provide you 02:25:39
6 with more information on the privacy settings.

7 Q. I'm sorry. And -- and you said "tour" as
8 in T-O-U-R?

9 A. Yes. We have a privacy tour for new
10 users. 02:25:56

11 Q. In connection with the privacy tour, and
12 specifically with respect to the privacy shortcuts,
13 do you recall whether or not there was any
14 reference or disclosure to the SRR?

15 A. I don't remember, sitting here right now. 02:26:22

16 Q. Do you recall whether or not there was
17 any reference or disclosure in the privacy
18 shortcuts that referred the user to the DUP?

19 A. I don't remember.

20 Q. Are the privacy shortcuts -- so you said 02:26:48
21 that they were rolled out by Facebook in
22 December of 2012, right?

23 A. Yes, I said that.

24 Q. Are they still in existence today?

25 A. Yes. I -- I -- yes, they are. 02:27:04

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1 MR. KO: Believe it or not, I have an 02:27:13
2 exhibit for you.

3 We're going to put on the platform a copy
4 of what will be marked as Exhibit 331.

5 (Exhibit 331 was marked for 02:27:21
6 identification by the court reporter and is
7 attached hereto.)

8 MR. KO: Just give it a moment. And
9 while it magically arrives in your platform, the --
10 I'll note for the record that tab J is 02:27:40
11 Bates-stamped FB-CA-MDL-00005751.

12 Q. (By Mr. Ko) Let me know when you have a
13 copy of that.

14 A. I have it.

15 Q. Okay. Does this document look familiar 02:28:19
16 at all to you, Ms. Hendrix?

17 A. Yeah, I -- I think I've seen this before.
18 Not -- I -- yes, it looks familiar.

19 Q. And by the way, just for your benefit,
20 you can see portions of this exhibit that is -- 02:28:56
21 that is being screen-shared as well. But it sounds
22 like you're -- or it looks like you have a good
23 handle on looking at the document directly. So
24 whatever you choose.

25 So there's a reference in this 02:29:12

1 document -- and I'm looking at the second page -- 02:29:14
2 to privacy shortcuts.
3 Do you see that?
4 A. I am there.
5 Q. And is it fair to say, given the 02:29:30
6 description -- and -- and take a moment to read it,
7 if you need to -- but is it fair to say that the
8 privacy shortcuts were designed to help users get
9 quicker access to accessing their privacy settings
10 and controls? 02:29:46
11 A. What did you say? I'm so sorry. I was
12 reading.
13 Q. Is it fair to say that the privacy
14 shortcuts were designed to help users get quicker
15 access to seeing their privacy settings and 02:29:59
16 controls?
17 A. I don't know if quick -- maybe quicker is
18 fair. It's just making -- it's just having that
19 shortcut right next to the home button. So it
20 makes it like prominent everywhere they go. 02:30:19
21 Q. Let's do it that way because, you know,
22 to me, a shortcut would mean quicker. But let's
23 just use your example as a shortcut.
24 So is it fair to say that the privacy
25 shortcuts were designed to help users access a 02:30:37

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1 shortcut to see their privacy settings and 02:30:44
2 controls?
3 A. I'm -- I'm just struggling to -- so I
4 don't know if -- so some of their controls, I
5 guess. 02:31:14
6 Q. Yeah, some of the controls, I -- I
7 believe.
8 Well, if you look at Exhibit 331, there's
9 a reference to this post made by Sam Lessin, who I
10 assume you know. But Sam Lessin describes in this 02:31:27
11 post under "Privacy Shortcuts" that there is a way
12 in which to access key settings from the privacy
13 shortcut, correct?
14 A. Where does he say that?
15 Q. I'm looking at the third sentence that 02:31:50
16 begins "Now."
17 A. So, yes, it says "Now, for key settings,
18 you just go to the toolbar to help manage 'Who can
19 see my stuff? Who can contact me,'" et cetera.
20 Q. And so the privacy shortcuts were 02:32:10
21 designed to help users access key settings from the
22 privacy shortcut toolbar, correct?
23 A. It's designed to improve a person's
24 access to their privacy settings and controls.
25 Q. And do you have any understanding -- 02:32:42

1 and -- and when Mr. Lessin describes in this post 02:32:44
2 that there are certain key settings that a user can
3 access, do you have an understanding of what key
4 settings those are?

5 A. It would be the settings around who can 02:33:10
6 see my stuff, who can contact me, and how do I stop
7 someone from bothering me.

8 Q. And there's an example of that down
9 below. I know it's a little fuzzy.

10 But -- but do you see that example, which 02:33:24
11 I believe is a snapshot of the actual privacy
12 shortcut tool and the three things you just
13 described?

14 A. Yes, I see this.

15 Q. So according to this post, those were 02:33:35
16 the -- the key settings that a user could access
17 from the privacy shortcut tool, correct?

18 MR. BLUME: Objection. Asked and
19 answered.

20 THE DEPONENT: Well, they could access 02:33:44
21 them from many other places. This was just like an
22 improvement to the -- it -- it was a shortcut, if
23 you will.

24 Uh-oh. What's happening?

25 MR. KO: Nothing has happened for me. I 02:34:01

1 don't know if something has happened for you. 02:34:03

2 THE DEPONENT: We have a menu that just
3 popped up on our screen.

4 MR. BLUME: You can keep going.

5 THE DEPONENT: Yeah. You can keep going. 02:34:11
6 Thank you.

7 Q. (By Mr. Ko) Now, you -- you say that it
8 was an improvement.

9 What do you mean by that?

10 A. Well, it was a shortcut. So it's -- like 02:34:26
11 users had the ability to access their controls via
12 multiple interfaces, but this puts the privacy
13 shortcut on essentially every page on their
14 Facebook experience.

15 So it just -- it's an improvement in the 02:34:43
16 sense that it's right there instead of having to
17 navigate to the settings in another method. This
18 is just -- that's what I mean. It's an
19 improvement.

20 Q. Because before the user had to navigate 02:34:58
21 through a separate set of pages to access this set
22 of controls, correct?

23 A. I -- you said "pages," but --

24 Q. Let me ask it this way.

25 The post says, at the first sentence 02:35:19

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1 underneath "Privacy Shortcuts, Up until now, if you 02:35:23
2 wanted to change your privacy and timeline controls
3 on Facebook, you would need to stop what you're
4 doing and navigate through a separate set of
5 pages." 02:35:36

6 A. Okay. Yes, it says that.

7 Q. "Today we're announcing new shortcuts you
8 can easily get to. Now, for key settings, you just
9 go to the toolbar to help manage 'Who can see my
10 stuff?' 'Who can contact me?' and 'How do I stop 02:35:50
11 someone from bothering me?' You can also access
12 Help Center content from these shortcuts."

13 Did I read that correctly?

14 A. Yes.

15 Q. So the privacy shortcuts were -- and 02:36:09
16 correct me if I'm wrong -- is it fair to say that
17 the privacy shortcuts were designed to improve the
18 way in which users could access key privacy
19 settings; is that fair to say?

20 A. I mean, I did use the word "improve," but 02:36:28
21 it also complements the existing resources that
22 they already had.

23 Q. So yes or no, you can -- you can answer
24 no, if you'd like. That's totally fine.

25 Yes or no, is it fair to say that the 02:36:46

1 privacy shortcuts were designed to improve the way 02:36:48
2 in which users could access key privacy settings?

3 MR. BLUME: Objection.

4 THE DEPONENT: I mean, I feel like we
5 just -- like I -- I -- I do view it as an 02:37:13
6 improvement to what was already -- it wasn't a
7 change in the -- in the controls that they had.

8 But it was just intended to be a -- a shortcut on
9 the Facebook site to help people further navigate
10 to the controls that they had. 02:37:38

11 Q. (By Mr. Ko) Would that be a "yes" in
12 response to my question?

13 MR. BLUME: Objection. You're -- you're
14 characterizing it and she's explaining.

15 MR. KO: Right. So I -- 02:37:47

16 MR. BLUME: This is why it's taking so
17 long.

18 Q. (By Mr. Ko) Yes or no, is it fair to say
19 that the privacy shortcuts were designed to improve
20 the way in which users could access key privacy 02:37:54
21 settings?

22 MR. BLUME: Objection. She said she saw
23 it as an improvement. Asked and answered.

24 THE DEPONENT: I view it as an
25 improvement to -- 02:38:10

1 Q. (By Mr. Ko) Thank you. 02:38:12

2 A. But not as an improvement to the -- to
3 the controls themselves. But now you can actually
4 get there with that on every page that shows up on
5 the interface. 02:38:21

6 Q. Are there any studies or research done in
7 connection with this change?

8 MR. BLUME: Objection.

9 THE DEPONENT: I don't remember.

10 Q. (By Mr. Ko) One of the settings that you 02:38:43
11 can access on this drop-down in the privacy
12 shortcuts is a -- at the very top of the privacy
13 shortcuts, a reference to "'Who can see my stuff?'"

14 Do you see that?

15 A. Yes. 02:39:01

16 Q. Do you know whether or not the drop-down
17 revealed -- well, first of all, there was a
18 drop-down based on that specific button, correct?

19 MR. BLUME: Objection. It's getting so
20 far beyond topic 3 that -- 02:39:16

21 MR. KO: That's incredible that you say
22 that, Mr. Blume. But your objection is noted.

23 MR. BLUME: Thank you. Incredible.

24 It has nothing to do with users' privacy
25 or app settings. This is a technological change. 02:39:30

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1 So it goes beyond topic 3. It's incredible. 02:39:33

2 Q. (By Mr. Ko) Just so the record is
3 clear -- and I want to make sure that -- so
4 Ms. Hendrix, you are here to testify as to the
5 process for developing privacy or app settings, or 02:39:47
6 other controls made available to users to prevent
7 or limit their data or information from being
8 accessed by third parties.

9 MR. BLUME: And -- and --

10 MR. KO: Hold on. I'm asking -- 02:39:57

11 MR. BLUME: -- and this technology is
12 none of that, David.

13 Well, no, it goes -- it's a legal
14 question. This technology doesn't go to any of
15 those points, David. You have to understand it to 02:40:03
16 ask. But it doesn't -- what you just described is
17 not what we're talking about. So it's way beyond
18 what you just described as the topic.

19 MR. KO: You can make an objection.

20 MR. BLUME: It's beyond the scope. 02:40:21

21 MR. KO: Do you have an objection?

22 MR. BLUME: It's -- it's beyond the
23 scope.

24 Q. (By Mr. Ko) Ms. -- Ms. Hendrix, you are
25 here to testify to the process -- let me ask again. 02:40:27

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1 Ms. Hendrix, consistent with topic 3, you 02:40:34
2 are here to testify as to the processes of
3 developing privacy or app settings, or other
4 controls, made available to users to prevent or
5 limit their data or information from being accessed 02:40:48
6 by third parties; is that correct?

7 A. Yes. But the privacy shortcuts is not a
8 control, and it's not an app or a privacy settings.

9 MR. BLUME: Exactly.

10 Q. (By Mr. Ko) Great. Well, this is very 02:41:06
11 helpful because my next question was, you have
12 referred throughout this day about educational --
13 certain educational materials that you believe were
14 made available to users to help them control the
15 information that they make available. 02:41:19

16 Do you recall that testimony?

17 MR. BLUME: Objection. That's not her
18 testimony.

19 THE DEPONENT: I -- I refer to the
20 educa- -- the educational resources are just 02:41:33
21 additional information and attempts to have people
22 understand the controls that we provide.

23 Q. (By Mr. Ko) And I believe one example --
24 this is how the privacy checkup tool came about --
25 the privacy checkup tool was one such example of -- 02:41:51

1 of the educational resources Facebook provided, 02:41:54
2 correct?

3 A. Right. It's an educational resource that
4 tells people, you know, what their current settings
5 are and educates them on the fact that if they want 02:42:04
6 to change their settings, their controls, that they
7 can do so.

8 Q. Would you characterize these privacy
9 shortcuts to be under the same umbrella as -- or
10 under the same umbrella of educational resources 02:42:18
11 that you put the privacy checkup tool under?

12 A. These are -- those are different things.
13 But it's all designed to just further explain the
14 controls and -- and the settings that we have
15 built. 02:42:36

16 Like there's multiple ways that if a user
17 wants to understand, they can go to the controls
18 themselves and see what they've set. But these are
19 additional measures that we continue to evolve and
20 undertake in order to further educate and remind 02:42:50
21 people about decisions that they've made. Some
22 people have set up their Facebook accounts 18-plus
23 years ago.

24 So I wouldn't call them controls versus
25 educational resources reminding them of controls. 02:43:07

1 Q. And I was very much asking about 02:43:10
2 educational resources only.

3 One example of an educational resource
4 you gave was the privacy checkup tool, and my
5 question is whether or not you believe the privacy 02:43:20
6 shortcut tool is also an educational resource?

7 A. It is a -- it is a feature within the
8 Facebook experience that if you click on it, you
9 can -- and then go to that toolbar and get access
10 to those things that you already read, so I -- I 02:43:58
11 will spare us -- and just helps point you to the
12 decisions that you've made or, for example, the
13 last sentence, the help center, so that you can --
14 if you have more questions, you can go to the help
15 center as well. 02:44:17

16 Q. So is the privacy shortcuts tool, yes or
17 no, an example of an educational resource that you
18 were describing earlier today?

19 MR. BLUME: Objection. Asked and
20 answered. 02:44:34

21 THE DEPONENT: It is a shortcut to
22 resources that are available.

23 Q. (By Mr. Ko) So do you view it as part of
24 the -- so you -- you were the one who testified as
25 to educational resources, correct? 02:44:47

1 MR. BLUME: Objection. Asked and 02:44:53
2 answered.

3 THE DEPONENT: I -- I did say -- say
4 that.

5 Q. (By Mr. Ko) So I have a very simple 02:44:58
6 question.

7 Do you believe -- when you're talking
8 about educational resources, is the privacy
9 shortcut tool part of the educational resources you
10 had in mind, or is it not a part of the educational 02:45:11
11 resources that you had testified to earlier?

12 A. I view it as being a part of that in the
13 sense that it provides a shortcut to the actual
14 resources.

15 So it would be under the umbrella of what 02:45:28
16 are the features and functionalities that we offer
17 to help further educate and/or remind people of the
18 actual settings and controls that we have in place.

19 Q. Thank you. You we can put -- we can move
20 on from this exhibit. 02:45:49

21 Now, in connection with the materials
22 that you reviewed in preparation for this
23 deposition, did you review any pleadings in
24 connection with this case?

25 A. What is a pleading? 02:46:14

1 Q. Are you familiar with the allegations in 02:46:16
2 this case related to friend sharing or the sharing
3 of friend data?

4 A. Yes.

5 (Simultaneously speaking.) 02:46:23

6 Q. (By Mr. Ko) What is your
7 understanding --

8 A. So did you mean like the complaint? Is
9 that a pleading?

10 Q. We've moved on from that. It's okay. 02:46:32
11 What is your understanding of these
12 allegations that you are familiar with?

13 MR. BLUME: What -- how -- how is that a
14 question relevant to a corporate representative?

15 Q. (By Mr. Ko) In your capacity as a 02:46:50
16 corporate designee, on behalf of Facebook, are you
17 aware of the claims in this case that relate to
18 friend sharing?

19 MR. BLUME: She -- asked and answered.
20 You already asked that question. You're wasting 02:46:58
21 time.

22 MR. KO: You're wasting time by injecting
23 speaking objections into the record.

24 MR. BLUME: David, you're asking the same
25 question twice in a row even. 02:47:11

1 MR. KO: I did not. There was -- let -- 02:47:12
2 the record speaks for itself.
3 MR. BLUME: Yes, it does.
4 MR. KO: There were two different
5 subtleties in that question. 02:47:15
6 So anyways, please just object and that's
7 all.
8 Q. (By Mr. Ko) In your capacity as a
9 corporate designee, on behalf of Facebook, are you
10 aware of the claims in this case related to friend 02:47:24
11 sharing?
12 A. I am here to talk about the topics and --
13 and part of that I have researched friend sharing
14 and -- and reminded myself on things that I didn't
15 know. 02:47:41
16 Did I zoom in on your actual complaints?
17 I didn't think that was my job. But I did do my
18 research into the topics.
19 Q. You're making a lot of assumptions about
20 the questions I'm asking. 02:47:55
21 I'm simply asking you whether or not you
22 are aware, yes or no. I'm not asking you whether
23 or not you researched. I'm not asking whether or
24 not you did a granular deep dive into all the
25 allegations. I'm not asking you if you know all 02:48:07

1 the ins-and-outs about the allegations. 02:48:08

2 I'm simply asking you, are you aware of
3 the allegations in this case related to friend
4 sharing?

5 MR. BLUME: David, you asked it 14:46:18 02:48:18
6 (indiscernible) in this case --

7 MR. KO: I can't hear a thing you said
8 because your microphone is so muffled.

9 MR. BLUME: She -- she said -- in
10 14:46:18, she -- you said "Are you familiar with 02:48:27
11 the allegations in this case related to friend
12 sharing or the sharing of friend data?" She said
13 "Yes."

14 So it is exactly the same question and
15 it's just wasting time. It's been asked and 02:48:39
16 answered about 30 seconds ago.

17 Q. (By Mr. Ko) And I am asking you, in your
18 capacity as a corporate designee, on behalf of
19 Facebook -- to make sure I address any of the
20 objections that you need to make, Mr. Blume -- are 02:48:54
21 you aware of these claims in your capacity as a
22 corporate designee on behalf of Facebook?

23 MR. BLUME: Same objection.

24 THE DEPONENT: I'm here to prepare to
25 speak to the topics. And if you want to get into 02:49:08

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1 Either you answer yes, no, or "I cannot 02:49:44
2 answer that question in a yes-or-no fashion." And
3 let's move forward.

4 MR. KO: Thank you,
5 Special Master Garrie. 02:49:53

6 THE DEPONENT: Thank you.

7 SPECIAL MASTER GARRIE: So please read
8 the question again, Counsel Ko, and then move
9 forward once we get --

10 Q. (By Mr. Ko) In your capacity -- in your 02:50:01
11 capacity as a corporate designee, on behalf of
12 Facebook, are you aware of the claims related to
13 friend sharing in this case?

14 MR. BLUME: Objection.

15 THE DEPONENT: I don't remember the 02:50:17
16 specific claims. I'm aware -- sorry. Sorry,
17 Garrie [sic]. I know I said -- I need to...

18 MR. KO: Great. Thank you. That was
19 very helpful.

20 MR. BLUME: Twice. 02:50:34

21 Q. (By Mr. Ko) Do you know -- with respect
22 to friend sharing, what is your understanding of
23 that term?

24 A. I don't remember if it's defined in any
25 of this. But I can speak, if you'd like me to 02:51:12

1 generally, about friend sharing, the topic. 02:51:15

2 Q. Yes. That's what I am asking.

3 I'm not -- I'm not asking you about a specific
4 definition.

5 I'm just simply asking whether or not you 02:51:26
6 understand what the concept of friend sharing
7 refers to?

8 A. So the concept of friend sharing is you
9 create a Facebook account. You choose to friend
10 people, so you -- you create friend connections. 02:51:41
11 And those friends, you choose whether to share
12 information with them and that's -- just for
13 purposes of time, I'll stop there.

14 Q. For some portion of the relevant time
15 period, Facebook permitted third-party app 02:52:09
16 developers to access friend information; is that
17 correct?

18 MR. BLUME: Object -- objection.

19 THE DEPONENT: You're trying to get me to
20 do yes or no so I need you to actually ask the 02:52:29
21 question again.

22 MR. BLUME: Ask an open-ended question.

23 He's --

24 Q. (By Mr. Ko) Is it accurate to say that
25 for any portion of the relevant time period, 02:52:40

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1 Facebook permitted third-party app developers to 02:52:43
2 access friend information?

3 MR. BLUME: Objection.

4 THE DEPONENT: I wouldn't state it that
5 way. 02:52:58

6 Q. (By Mr. Ko) How would you state it?

7 A. During the relevant time period, for
8 certain portions of it, Facebook enabled people to
9 enable their friends to share certain information
10 with third-party apps. 02:53:10

11 Q. So for some portions of the relevant time
12 period, Facebook enabled people to enable their
13 friends to share certain information with
14 third-party apps, correct?

15 MR. BLUME: Objection. Asked and 02:53:27
16 answered. You just read her answer.

17 Is that what you said?

18 THE DEPONENT: I think that's what I
19 said. I -- I don't know. If that's what I said,
20 correct. Otherwise, let's just go with what I 02:53:40
21 said.

22 Q. (By Mr. Ko) All right. And I'm reading
23 verbatim from your answer, to make you feel better.

24 And are you aware at all of what periods
25 of time within that relevant time period 02:53:53

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1 Facebook -- Facebook enabled people to enable their 02:53:56
2 friends to share certain information with
3 third-party apps?

4 A. That would be up until I -- I'm not
5 actually -- I don't remember the precise date when 02:54:17
6 it -- of when we got everyone off of v1. So
7 I'm not -- I'm not sure of the precise date.

8 Q. And when you're referring to v1, I assume
9 you're -- you're meaning Graph version 1 -- 1.0,
10 right? 02:54:38

11 A. That's right.
12 Anyone that developed an app after
13 April of 2014, did not have the ability to ask
14 people to share their friends information to the
15 extent their friends enabled them to do so through 02:54:51
16 their privacy app and app settings.

17 Q. And this Graph version 1 was also
18 referred to as Graph API version 1.

19 Does that sound familiar?

20 A. Yes. 02:55:09

21 Q. And it was replaced, as you say, in
22 April of 2014, with Graph version 2 or Graph API
23 version 2; is that correct?

24 A. I wouldn't say replaced, no.

25 Q. How would you say it? 02:55:30

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1      A.    We up- -- we created another version of           02:55:32
2      the Graph -- Graph API.  So it's not accurate to
3      say replaced, because version 1 and 2 were live for
4      a while at the same time.
```

5 Q. And -- and how long -- because obviously 02:55:46
6 it takes time to roll things -- things out,
7 obviously it takes time to notify app developers.

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8           How long was it the case that version 1.0
9 was still in existence?
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A. I just testified moments ago that I don't remember the precise date when that version was no longer reported. But I do know that April 14th, 2014, anything -- any app created thereafter could not have been built on v1, only v2.

16 Q. With respect to v2, your testimony is
17 that app developers on v2 could no longer access
18 certain information about a user's friend; is that
19 fair to say?

20 MR. BLUME: Objection. That was not her 02:56:45

21 testimony.

22 MR. KO: You can object.

23 MR. BLUME: Mischaracterizing her
24 testimony.

25	MR. KO: Thank you.	02:56:55
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1 Q. (By Mr. Ko) Can you answer the question, 02:57:05
2 Ms. Hendrix?
3 A. I didn't understand what you asked me.
4 Q. You said in connection with Graph v. --
5 Graph v2, an app developer did not have the ability 02:57:16
6 to ask people to share their friends' information.
7 Do I understand your testimony correctly?
8 A. To be very precise, they could still ask
9 for the inapp friend list, but no friend
10 permissions that were available in the v1. They -- 02:57:37
11 there was no friend permissions in v2. You could
12 only ask for my inapp friend list.
13 Q. Other than the inapp friend list, in
14 connection with Graph v2, there were no other
15 friend permissions allowed, correct? 02:57:59
16 A. Those were -- they were -- yes. They
17 were deprecated.
18 Q. Now, this change with respect to v2, as
19 it applied to app developers and their ability to
20 access certain friend permissions, was that change 02:58:26
21 reflected in Facebook's platform policies with
22 third-party app developers?
23 A. What do you mean?
24 Q. This was a change, correct?
25 You would agree with me on that, a change 02:58:50

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1 in the way it reflected -- 02:58:52

2 A. It was --

3 Q. Go ahead.

4 A. It was a product change.

5 Q. In connection with that product change, 02:58:59

6 was that reflected in any policy -- platform policy

7 or --

8 MR. BLUME: Objection.

9 THE DEPONENT: I don't understand what

10 you mean. 02:59:12

11 Q. (By Mr. Ko) Was there a change in any

12 policy that reflected the fact that app developers

13 could no longer request friend permissions in

14 Graph v.2?

15 A. That's not a yes-or-no question. I'm 02:59:39

16 sorry. Like if you ask it open-ended, like did you

17 make changes to the Facebook platform policies in

18 connection with the change from v1 to v2, I can

19 answer that. And the answer yes. But your

20 question doesn't make sense to me. 02:59:52

21 Q. Let's start that way.

22 So you made changes to the Facebook

23 platform policy in connection with the change from

24 v1 to v.2, correct?

25 A. Yes. 03:00:04

1 Q. And I imagine that those changes were, in 03:00:06
2 fact, made in the platform policy, the -- the --
3 A. I -- I just --
4 Q. -- policy governing -- let me just finish
5 my question. 03:00:15
6 A. I just said that.
7 MR. BLUME: Asked and answered.
8 MR. KO: A large part of this is making
9 sure that is the record is clear.
10 MR. BLUME: It's just wasting time, 03:00:22
11 David.
12 Q. (By Mr. Ko) In connection with changes
13 made to the Facebook platform policy, there were --
14 well, I -- I -- let me ask this -- let me ask it
15 this way. 03:00:41
16 In connection with the change from v1 to
17 v2, there were certain changes made to the
18 platform -- Facebook platform policy, correct?
19 A. Correct.
20 Q. And was the change regarding third-party 03:00:53
21 access to certain friend permissions reflected in
22 any of those changes in the Facebook platform
23 policy?
24 MR. BLUME: Objection. Form.
25 THE DEPONENT: No. We don't detail the 03:01:12

1 products and how they work in the -- in the 03:01:14

2 agreement with developers.

3 Q. (By Mr. Ko) Would you agree with me that

4 this was a big change for Facebook and its app

5 developers? 03:01:27

6 MR. BLUME: Objection.

7 THE DEPONENT: What do you mean by "it"?

8 MR. KO: "It" referring to third-party

9 app developers access to and lack thereof of

10 certain friend permissions. 03:01:42

11 MR. BLUME: Objection.

12 THE DEPONENT: I agree it was a

13 significant way that the Facebook platform worked.

14 Q. (By Mr. Ko) And this was a -- a big deal

15 for the app developers, too, right? 03:02:00

16 MR. BLUME: Objection. It's beyond the

17 scope. Speculation.

18 THE DEPONENT: I am not going to -- yeah,

19 I -- I can't speculate for whether it was a big

20 deal. I mean, at the time, we had like 43, 40-some 03:02:15

21 million apps. So I -- like each of these apps on

22 the platform will have experienced different

23 hurdles, some of which that didn't need friend

24 permissions.

25 Obviously, that's not significant to 03:02:27

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1 them. But others would have to go in and configure 03:02:29
2 their apps and make changes and -- to adjust to
3 the -- the new way that the platform worked in v2.

4 Q. (By Mr. Ko) With respect to the
5 43 million or 40-some million apps that you -- you 03:02:43
6 referred to a moment ago, is that the number of
7 apps that have existed throughout the relevant time
8 period, or are you referring to some specific point
9 in time?

10 A. I'm referring to a specific period of 03:03:03
11 time as a data point. I'm familiar with -- of --
12 in 2013, roughly, we had about 40-some -- in the
13 lower 40 million apps on the platform.

14 Q. And do you know how many apps are on the
15 platform today? 03:03:23

16 MR. BLUME: Objection. Beyond the scope.

17 What topic is that?

18 MR. KO: Enforcement, Mr. Blume.

19 MR. BLUME: Okay. What topic is that?

20 Q. (By Mr. Ko) So you found it necessary 03:03:42
21 and -- and relevant to understand how many apps
22 were on the Facebook platform as of 2013, and you
23 reported that that number is about 40 to
24 43 million, correct?

25 MR. BLUME: Objection. 03:03:53

1 THE DEPONENT: Not for this case, no. 03:03:55

2 Q. (By Mr. Ko) Got it.

3 Do you have an understanding of how many

4 apps were on the Facebook platform at any time

5 other than 2013, sitting here today? 03:04:05

6 MR. BLUME: Objection. Beyond the scope.

7 THE DEPONENT: I know that I have

8 reviewed and been provided with information

9 throughout, for different reasons, some of which

10 have nothing to do with litigation, that I've had 03:04:17

11 numbers presented to me.

12 I know I can find how many are on the

13 platform today. I don't know, sitting here today,

14 if I can tell you more than just that one example

15 that I remember. 03:04:30

16 Q. (By Mr. Ko) Was there any policy --

17 platform policy, or otherwise, that reflected the

18 fact that third-party app developers could no

19 longer access certain friend permissions in

20 connection with Graph v2? 03:04:50

21 MR. BLUME: Objection.

22 THE DEPONENT: For like the fourth

23 time -- and I apologize I'm -- because I'm getting

24 tired and grumpy -- but like I've already told you,

25 I did make a policy change -- personally developed 03:04:59

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1 along with all of the other teams that work on and 03:05:01
2 develop the policies -- we did make a policy change
3 in connection with the Facebook platform change
4 from v1 to v2.

5 Q. (By Mr. Ko) And in connection with that 03:05:16
6 policy change, was there anything -- was there any
7 language that related to or otherwise covered the
8 fact that third-party app developers were no longer
9 accessing friend data or friend permissions?

10 MR. BLUME: Objection. Asked and 03:05:35
11 answered.

12 THE DEPONENT: Not in the specific
13 Facebook platform policy document, right. But
14 elsewhere you could go -- like let's say you wanted
15 to go to the friend permissions page on the 03:05:44
16 developer documentation site.

17 You might see a v1 to v2 header on the
18 top explaining the fact that we had announced the
19 change and linking to the announcement.

20 But, again, I'm -- I'm -- I am trying not 03:05:56
21 to -- I should stop trying to help you with your
22 questions is what I'm giving myself feedback on.
23 But there you go.

24 Q. (By Mr. Ko) So after this change was
25 made with respect to third-party app developer 03:06:13

1 access over friend permissions and friend data, you 03:06:18
2 don't dispute that third parties continued to
3 access this --

4 MR. BLUME: Objection.

5 Q. (By Mr. Ko) -- information, correct? 03:06:31

6 MR. BLUME: Objection to the
7 characterization. It's inconsistent with her
8 testimony.

9 THE DEPONENT: I -- I dispute what you
10 just said. 03:06:37

11 Q. (By Mr. Ko) Okay. So you deny -- or
12 is -- is it your testimony that after
13 April of 2014, third-party app developers no longer
14 obtained information about a user's friend?

15 MR. BLUME: Objection. What -- how is 03:06:57
16 this monitoring the version of contractual times?

17 Ask her about the contracting terms. But
18 other than, it's beyond the scope. And I'll
19 instruct her not to answer.

20 MR. KO: Can you please stop with the 03:07:08
21 speaking objections.

22 MR. BLUME: I'm -- I'm giving her
23 instruction, David. She has to understand my
24 instruction. Okay?

25 My instruction is beyond -- 03:07:15

1 (Simultaneously speaking.) 03:07:15

2 MR. KO: Correct. And then you can

3 object to form --

4 MR. BLUME: Beyond -- it's -- don't -- if

5 you interrupt me, she can't take down what I'm 03:07:16

6 saying.

7 My instruction is it's beyond the scope.

8 And I would instruct her not to answer.

9 MR. KO: Special Master Garrie, there is

10 a clear and unambiguous rule in the 03:07:28

11 Northern District of California that counsel

12 defending a deposition are not permitted to lodge

13 speaking objections on the record.

14 If Mr. Blume --

15 MR. BLUME: Unless it's an instruction -- 03:07:39

16 MR. KO: -- has a problem --

17 MR. BLUME: Unless it's an instruction to

18 the witness.

19 SPECIAL MASTER GARRIE: Well, wait. Just

20 because I'm not -- wait. Time-out. 03:07:45

21 (Simultaneously speaking.)

22 MR. KO: Not -- not to answer.

23 MS. WEAVER: Time-out. Just because I'm

24 not talking doesn't mean that it's an invitation to

25 speak. This means I'm thinking of what I'm going 03:07:51

1 to say. 03:07:54

2 I believe, Counsel Blume, you're

3 instructing her not answer because it's beyond the

4 scope.

5 Is that not your instruction? 03:08:07

6 MR. BLUME: That is what I was

7 articulating, yes.

8 SPECIAL MASTER GARRIE: Okay. Can you

9 lean in so I can hear the objections better, just

10 for my own edification. 03:08:16

11 MR. BLUME: Yeah, my -- yeah, we

12 eliminated a microphone to try to stop the

13 feedback. So yes.

14 SPECIAL MASTER GARRIE: Okay. I'm

15 going to -- okay. So that objection is fine. 03:08:25

16 The objections going forward, please

17 finish the objection and just state the objection,

18 hearsay, whatever -- everybody here knows the

19 federal rules. So state the objection. And we'll

20 move it forward. 03:08:40

21 If your instruction, though, is to

22 instruct the witness -- your witness not to answer

23 the question because it's beyond the scope, because

24 of attorney-client privilege, you're well within

25 your rights to make said instruction. 03:08:49

1 I noted, Counsel Ko, for the record. 03:08:51
2 Please, Counsel Blume, on a going forward basis,
3 make sure that you continue with your objections
4 being concise and in compliance with federal rules
5 and we will continue forward. 03:09:04
6 Counsel Ko -- but I want to just say,
7 Counsel Blume, just instruct her not to answer.
8 The whole reason why isn't -- I instruct the
9 witness not to answer because it's beyond the scope
10 of the -- beyond -- beyond the scope. 03:09:18
11 Okay?
12 MR. BLUME: Understood.
13 MR. KO: To make it clear --
14 MR. BLUME: Is this a good time to take a
15 break. 03:09:24
16 MR. KO: To be clear -- yeah, why don't
17 we go off the record.
18 SPECIAL MASTER GARRIE: One second,
19 Counsel Ko. I'll welcome your comment in 30
20 seconds. 03:09:31
21 MR. KO: Okay.
22 SPECIAL MASTER GARRIE: No, I finished,
23 Counsel Blume. I just -- I have one more sentence
24 unrelated to -- I was going to suggest, if we're at
25 a breaking point, given that we take a break after 03:09:45

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1 I hear from Counsel Ko's point, and then 03:09:50
2 Counsel Ko, I -- I welcome your point now.
3 MR. KO: So the -- the instruction not to
4 answer has to relate to a privilege. It is
5 improper to instruct an answer -- or instruct a 03:10:03
6 witness not to answer on the grounds that it's
7 beyond the scope.
8 Mr. Blume can lodge his objection for the
9 record and it's noted, but -- but the witness must
10 try and answer the question. It's not privileged. 03:10:15
11 This is not privileged information.
12 SPECIAL MASTER GARRIE: Counsel Ko --
13 MR. BLUME: It is --
14 SPECIAL MASTER GARRIE: Wait. Wait.
15 That's not a -- direct your arguments to me not to 03:10:21
16 each other, please.
17 That doesn't -- noted, Counsel Ko. It
18 doesn't mean that he's not entitled to state his
19 objection and state -- instructing his client not
20 to answer. His client can say "I am not going to 03:10:36
21 answer a question at -- per the direction of
22 counsel." And then you can then respond to
23 accordingly. But we have to let the process play
24 out in the -- in that fashion and we will address
25 it accordingly. 03:10:50

1 Counsel Blume -- 03:10:52

2 MR. BLUME: May I be heard?

3 SPECIAL MASTER GARRIE: -- what were you

4 going to say?

5 MR. BLUME: Yeah. It's -- that -- 03:10:54

6 that -- that doesn't apply in a 30(b)(6) setting

7 when the witness has been called per notice to

8 speak on behalf of the organization --

9 SPECIAL MASTER GARRIE: I haven't

10 ruled -- wait. Time-out, Counsel Blume, I 03:11:03

11 haven't --

12 MR. BLUME: Well, I'm responding to the

13 privilege. That's not the standard --

14 MS. WEAVER: I understand. I understand.

15 Counsel Blume, I intentionally didn't rule on that 03:11:10

16 and I didn't address it --

17 MR. BLUME: Oh, okay.

18 SPECIAL MASTER GARRIE: -- because it's

19 not here and now.

20 MR. BLUME: Fair enough. 03:11:16

21 SPECIAL MASTER GARRIE: If your

22 instruction is as such, then -- and Counsel Ko

23 will -- how about this. This what I suggest.

24 I understand your point, Counsel Ko. You

25 can reask the question when we return from a 03:11:25

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1 five-minute break. You can reask the question. 03:11:28

2 If Counsel Blume wants to instruct the
3 witness not to answer the question and Counsel --
4 and the witness wants to respond. And then you
5 want to point out that that's not a valid objection 03:11:36
6 under the federal rules. And then Counsel Blume
7 wanties to respond with regards to 30(b)(6) and
8 then I get to make a ruling, great.

9 But what we're going to do right now is
10 we're going to take a five-minute break and we'll 03:11:46
11 resume in five minutes.

12 And I note that and I appreciate,
13 Counsel Ko, your position. And -- and
14 Counsel Blume as well.

15 Okay? 03:11:56

16 MR. BLUME: Thank you, Your Honor.

17 SPECIAL MASTER GARRIE: Thank you. So we
18 will return in five minutes. So I'm just looking
19 at the Zoom time clock. Five minutes. Whatever
20 time zone you're in. 03:12:05

21 THE VIDEOGRAPHER: Okay. And we're off
22 the record at 3:12 p.m.

23 (Recess taken.)

24 THE VIDEOGRAPHER: Okay. We're back on
25 the record. It's 3:24 p.m. 03:24:30

1 SPECIAL MASTER GARRIE: I was giving some 03:24:34
2 thought to a -- our prior discourse, and I just
3 wanted to -- two important things.

4 One, let's make sure that every -- we're
5 not all in the same room and this is being done 03:24:42
6 virtually, so let's make sure that we're respectful
7 to let everybody get their words out, in part for
8 the -- so the court reporter doesn't have to go
9 back and listen to this whole thing, painstakingly,
10 to transcript it properly. 03:24:55

11 Next, same for the objections. Let --
12 let them get said. But keep them limited to the
13 federal -- just to the rules, right.

14 And -- and from there, I'll turn it -- I
15 believe to -- Counsel Blume, you mentioned that the 03:25:11
16 witness -- you're muted so I can exactly figure out
17 who's speaking on the Zoom. So if you wanted to
18 say anything, Counsel Blume...

19 MR. BLUME: Yes. Yes. The witness has a
20 clarification. 03:25:26

21 SPECIAL MASTER GARRIE: Okay.

22 THE DEPONENT: May -- may I go ahead?

23 SPECIAL MASTER GARRIE: Yeah.

24 THE DEPONENT: So I want to correct my
25 earlier testimony about the fact that there was a 03:25:34

1 platform policy change in connection with the move 03:25:40
2 from the -- the launch of v2.

3 Actually, we also, in April on the same
4 date, announced the update to login v4. And so the
5 policy that I was referring to was tied to the v4 03:25:57
6 login product. But it happened at the same time as
7 the announcement of the v2 version of the Graph
8 API.

9 So I just wanted to make sure I corrected
10 myself because I was mistaken on how I communicated 03:26:12
11 that and realized it during the break.

12 SPECIAL MASTER GARRIE: Noted for the
13 record.

14 With that said, Counsel Ko, I'm going
15 to -- thank you for the clarification. 03:26:23

16 And Counsel Ko, I'll turn it back over to
17 you.

18 MR. KO: Thank you,
19 Special Master Garrie. And thank you, Ms. Hendrix,
20 for that clarification. 03:26:35

21 Q. (By Mr. Ko) So let me unpack that a
22 little bit to make sure I understand.

23 With that clarification, are you
24 suggesting or indicating that there was not a
25 platform policy change in connection with the 03:26:47

1 launch of v2? 03:26:50

2 A. Not tied to the v1 to v2, that is
3 correct.

4 Q. So when Facebook began the rollout of
5 Graph v. -- Graph v2, in April of 2014, there was 03:27:10
6 not a corresponding platform policy change that
7 reflected the launch of Graph v2; is that correct?

8 A. There's a few inaccuracies in your
9 question in how we described the -- the v1 to v2.

10 Q. Let me ask it this way. 03:27:45

11 In the transition from Graph v1 to v2,
12 that began in April of 2014, was there any
13 reference to any -- to any aspect of the platform
14 policy that reflected the move by Facebook to
15 Graph v2? 03:28:11

16 A. No.

17 Q. Now, in connection with the deprecation
18 of -- by Facebook of allowing third parties to
19 access friends information, was that deprecation
20 reflected in any SRR in 2014, or otherwise? 03:28:42

21 MR. BLUME: Objection. Form.

22 THE DEPONENT: Yes, as to otherwise,
23 because we're talking about 2007, all the way to
24 today.

25 Q. (By Mr. Ko) So the deprecation of friend 03:29:08

1 sharing by Facebook was reflected in SRRs 03:29:13
2 post-2014, I presume; is that your testimony?
3 MR. BLUME: Objection.
4 THE DEPONENT: No, that's not my
5 testimony. 03:29:26
6 Q. (By Mr. Ko) Okay. Was -- was there any
7 SRR, at any point in time over the relevant time
8 period, that reflected the deprecation of friend
9 data?
10 A. Friend permissions. And, yes, at some 03:29:48
11 point in time when it was appropriate, we did make
12 changes to the relevant terms and policies.
13 Q. And when was that?
14 A. I don't recall the precise date today,
15 but it would have been when v1 was no longer 03:30:11
16 relevant, because it would be improper to delete
17 those disclosures to people who were using apps
18 that were still using version 1 of the platform.
19 Q. And while you don't recall the precise
20 date, do you have a general understanding of what 03:30:29
21 time period we're referring to?
22 Is it -- I'm assume it's sometime after
23 2014, right?
24 So is there a general time frame in which
25 you understand that these changes were made in the 03:30:39

1 SRR? 03:30:43

2 A. It -- it would -- it would have been

3 after the May 2015 date. But the precise timing

4 thereafter, I don't remember, sitting here today.

5 Q. And what's the significance of May 2015? 03:31:08

6 A. Well, developers -- when we announced

7 that we were deprecating friend permissions and

8 that's why -- sorry. I'll stop.

9 When we were deprecating friend

10 permissions, we gave them -- we announced that they 03:31:26

11 had a year -- subject to our breaking change policy

12 decision -- to give them a year to transition and

13 configure their apps and build them on v2.

14 Q. And where -- when you say that "we

15 announced it," What do you mean by that? 03:31:45

16 A. We told -- we announced at F8, our

17 developer event -- to developers that we were

18 changing the way that the platform worked;

19 specifically, moving from v1 to v2. And that they

20 had one year up to -- to -- to make those changes 03:32:07

21 to move from v1 over to v2.

22 Q. That announcement at the F8 conference

23 that you're referring to, that -- that was made in

24 2014, correct?

25 A. Yes. And there were many other like 03:32:23

1 public -- like newsrooms posts and things. So I 03:32:25
2 shouldn't have limited my response to just the F8
3 developer event. But that was one of -- of -- of
4 the announcements that I recalled.

5 Q. And so when you're saying May 2015, are 03:32:42
6 you saying that as of May 2015, Facebook gave one
7 year to developers to conform to the new model, or
8 are you saying that by May 2015, all users were
9 expected to comply with the new depre- -- with the
10 deprecation of -- of friend data? 03:33:01

11 MR. BLUME: Objection.

12 THE DEPONENT: The terms you've used
13 don't make sense.

14 Q. (By Mr. Ko) Okay. You -- you testified
15 that that Facebook announced it would give 03:33:11
16 developers one year to comply.

17 Do you recall that?

18 A. It's not compliance. So no, I don't
19 think I said the word "comply." If I did, maybe --
20 maybe I'm getting tired. But I -- I don't think I 03:33:28
21 would have said that.

22 Q. Okay. I believe -- that's fair. I think
23 you said "changes."

24 You said you -- Facebook announced that
25 they would give developers one year to make the 03:33:38

1 changes to move from v1 over to v2. 03:33:41

2 When did they make that announcement?

3 A. The announcement was made in

4 April of 2014. So to the extent the developers

5 wanted to continue to use the platform and offer 03:33:57

6 their apps to people, they would need to make the

7 changes by a year from the date of the

8 announcement.

9 Q. So when you're referring to May of 2015,

10 it was Facebook's intention that all developers 03:34:11

11 would have made the changes to move from v1 over to

12 v2, correct?

13 MR. BLUME: Objection. Form.

14 THE DEPONENT: The goal was to get the

15 developer community to move over. The 90-day 03:34:33

16 breaking change policy is normally what we do. But

17 we agreed and came up with an arbitrary date of one

18 year.

19 Q. (By Mr. Ko) And when you say that "We

20 agreed of an arbitrary date of one year," what 03:34:49

21 departments or individuals were responsible for

22 that decision?

23 MR. BLUME: Objection. Beyond the scope.

24 THE DEPONENT: The same group of teams

25 that I've referred to earlier today that work on 03:35:06

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1 platform products and policies. 03:35:09

2 Q. (By Mr. Ko) Now, after May of 2015,
3 certain third parties continued to access friend
4 data, correct?

5 MR. BLUME: Objection. Beyond the scope, 03:35:24
6 which -- unless you tell me what topic, I'm going
7 to instruct her not to answer.

8 THE DEPONENT: Yeah. It's fundamentally
9 related, Rob, to topic 3, including topic 3c.

10 MR. BLUME: And -- 03:35:42

11 Q. (By Mr. Ko) Let me ask it this way,
12 Ms. Hendrix --

13 (Simultaneously speaking.)

14 MR. BLUME: -- I'm happy to go off --

15 Q. (By Mr. Ko) -- are you -- 03:35:45

16 MR. BLUME: I'm happy to go off the
17 record -- so we don't waste time -- and talk about
18 it --

19 MR. KO: No --

20 MR. BLUME: -- but -- 03:35:45

21 MR. KO: No, I -- I want to make this --

22 MR. BLUME: -- the question -- yeah.

23 Well, let me finish.

24 MR. KO: I want to put this on --

25 MR. BLUME: And I'm happy to -- 03:35:53

1 MR. KO: Go ahead. 03:35:53

2 MR. BLUME: Then we can go on the record.

3 And - hold on. You -- you can -- hold -- I'm

4 asking --

5 SPECIAL MASTER GARRIE: Stop. We're 03:35:54

6 still on the record. You're still talking over

7 each other and the court reporter can't type

8 anything.

9 So Counsel Blume, make your statement.

10 Counsel Ko, make your statement. 03:36:02

11 MR. BLUME: So the question --

12 SPECIAL MASTER GARRIE: You objected --

13 what was your -- you objected, Counsel Blume,

14 saying beyond the scope. Unless he can --

15 MR. BLUME: Yes. 03:36:12

16 SPECIAL MASTER GARRIE: -- counsel can

17 provide you the indication of why -- what is within

18 the scope of what this witness has been submitted

19 to.

20 Counsel Ko, did you respond? I believe 03:36:22

21 you did.

22 MR. BLUME: He did.

23 SPECIAL MASTER GARRIE: Okay. And

24 then --

25 MR. KO: Yeah, I identified topic 3 and 03:36:27

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1 3c, in particular. 03:36:29

2 SPECIAL MASTER GARRIE: Okay. And then,
3 Counsel Blume, did you respond to that?

4 MR. BLUME: I did. And I -- and -- and
5 my -- well, I didn't -- but my response was that as 03:36:37

6 it -- topic 3 is "An overview of processes of
7 developing Privacy or App Settings or other
8 controls made available to Users to prevent or
9 limit their Data from being accessed by Third
10 Parties," including dates and the data. 03:36:55

11 So it's controls -- it's processes for
12 developing controls available to users.

13 And c is including "Facebook's monitoring
14 and enforcement of contractual terms with Third
15 Parties regarding their use of Users' Data or 03:37:07
16 Information, including enforcement of Policies
17 regulating access to such Data or Information
18 beyond the Use Case."

19 And the question was, certain third
20 parties continue to access friend data, which is 03:37:19
21 beyond the processes of developing apps privacy or
22 app settings made available to users.

23 SPECIAL MASTER GARRIE: And Counsel Ko,
24 what was your response?

25 MR. KO: My response is that Facebook's 03:37:44

1 monitoring and enforcement of its contractual terms 03:37:47
2 with third parties regarding their use -- use of
3 users' data and -- or information, obviously
4 includes a user's -- information related to a
5 user's friends. And also includes information 03:38:06
6 related to friend sharing, of which Ms. Hendrix has
7 clearly testified was deprecated in 2014, with a
8 one-year grace period.

9 And so in order for us to understand how
10 Facebook actually monitored and enforced this 03:38:22
11 purported deprecation, I am certainly allowed to
12 ask this witness about that monitoring and
13 enforcement.

14 And if -- I would note, if Ms. Hendrix is
15 not the appropriate witness and Mr. Blume has not 03:38:36
16 prepared Ms. Hendrix to testify as to these topics,
17 we would request that Facebook provide a witness
18 that can.

19 MR. BLUME: There -- and there is a
20 witness on third-party data and -- and -- in 03:38:51
21 topic 2.

22 But Ms. Hendrix is here to speak about
23 processes or monitoring enforcement. Not -- not
24 any specificity with regard to whether third
25 parties accessed friend data. That's another topic 03:39:07

1 noticed. 03:39:11

2 She's here to talk about the processes of

3 developing controls focused on monitoring

4 enforcement, not the actual acts of the third

5 parties in a specific date and time. 03:39:21

6 MR. KO: Well, Mr. Blume, I'm so glad

7 that you referred to topic 2 --

8 SPECIAL MASTER GARRIE: Counsel Ko --

9 what was your response, Counsel Ko?

10 MR. KO: So I was saying, I'm -- I'm -- 03:39:32

11 I'm glad that Mr. Blume referenced topic 2b and 2d,

12 which Ms. Hendrix testified to earlier as being

13 related to topic 3.

14 (Simultaneously speaking.)

15 MR. BLUME: That's not what I said. 03:39:41

16 MR. KO: But 2d, in particular -- 2d, in

17 particular, asks and requests Facebook to provide a

18 witness to identify the category and the type of

19 data or information which Facebook sold, made

20 accessible or made available, including how -- as 03:39:57

21 2d indicates, "How Facebook ensured Third Parties'

22 use of such Data or Information was limited to the

23 Use Case."

24 SPECIAL MASTER GARRIE: Okay. Is that

25 Ms. Hendrix or not? 03:40:09

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1 MR. BLUME: It -- 03:40:11

2 MR. KO: Right. That's what I want to

3 know.

4 MR. BLUME: Yeah, it is -- it --

5 SPECIAL MASTER GARRIE: No. No. One 03:40:15

6 second, Counsel.

7 MR. KO: Well, who he is --

8 SPECIAL MASTER GARRIE: I'm asking the

9 questions now.

10 So Counsel Blume -- 03:40:17

11 MR. BLUME: Yes.

12 SPECIAL MASTER GARRIE: -- just for my

13 clarification, has she been submitted as a

14 witness -- 30(b)(6) witness on 2e?

15 MR. BLUME: "How Facebook ensured Third 03:40:27

16 Parties" Use of such Data."

17 It's -- it's -- it is the policies and

18 procedures that allow Facebook to monitor third

19 parties' use of data.

20 The question was: "Question: Now, after 03:40:37

21 May of 2015, certain third parties continued to

22 access friend data."

23 That doesn't go to Facebook's policies or

24 procedures or processes that were developed in

25 order to monitor third parties over -- between 2007 03:40:51

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1 and -- and present. It goes to what were the 03:40:54
2 actions of third parties in May of 2015.

3 That is beyond the scope of 2d. It is
4 beyond the scope of topic 3. If they wanted to ask
5 or create a topic that said identify all 03:41:04
6 third-party applications that continue to access
7 friend data or use friend data at any time, they
8 could have. It's not how they worded their topics.

9 Ms. -- Ms. -- Ms. Hendrix is a -- is --
10 is on -- focuses on policies, procedures. She's 03:41:19
11 been doing it her whole career. And she's happy to
12 talk about what those policies and procedures are
13 for monitoring the -- the -- the acts and -- and
14 accesses of -- of third party. And how Facebook
15 ensured that -- that the use of data was limited to 03:41:36
16 the use case; that is, the agreements of the
17 developers. Policies and procedures not --

18 SPECIAL MASTER GARRIE: I got it. I got
19 it.

20 MR. BLUME: -- actual -- 03:41:47

21 SPECIAL MASTER GARRIE: I got it. I
22 got -- I understand Facebook's position.

23 Counsel Ko?

24 MR. KO: I have two responses,
25 Special Master Garrie. 03:41:58

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1 One, it is bit divorced from reality if 03:41:58
2 one can only testify as to the policies and
3 procedures and not the facts for which those
4 policies and procedures can be applied.

5 So my question with respect to whether or 03:42:10
6 not third parties continued to access information
7 about a friend or a user's friend, obviously
8 relates to the policies -- the ultimate policies
9 and procedures that Facebook applied.

10 Such that Ms. Hendrix, as Mr. Blume is 03:42:26
11 indicating, has spent her life enforcing certain
12 policies and procedures that relate to the
13 monitoring and enforcement of user information.

14 Secondly, and a more practical point, is
15 as follows: Ms. Hendrix is the one that described, 03:42:42
16 in response to one of my questions, her knowledge
17 of friend deprecation. And so I am perfectly
18 entitled to explore her knowledge of friend
19 deprecation, which is exactly what I'm doing.

20 And she seems to be fully aware of 03:43:00
21 several aspects of friend deprecation, which
22 obviously is a key claim in this case. And so of
23 course --

24 SPECIAL MASTER GARRIE: I got it.

25 MR. KO: -- I'm able to ask her questions 03:43:11

1 about that. 03:43:12

2 SPECIAL MASTER GARRIE: Okay. Okay. So

3 just so I understand, Counsel Blume, did you

4 instruct her not to answer?

5 Just -- I can scroll back up to see 03:43:21

6 what --

7 MR. BLUME: Yes. I'm not -- I'm not --

8 they will have Ms. Hendrix in her personal capacity

9 and he's free to ask her what she knows.

10 But as a corporate representative, 03:43:34

11 she's un- -- she is prepared to talk about topics

12 relating to the processes and procedures, not with

13 regard to the actions of specific third parties.

14 SPECIAL MASTER GARRIE: And I -- I

15 understand -- 03:43:46

16 (Simultaneously speaking.)

17 MR. BLUME: Other than that -- let's put

18 it this way --

19 SPECIAL MASTER GARRIE: And I

20 understand -- 03:43:46

21 MR. BLUME: So, yes, I'm instructing --

22 I'm instructing her, at this point, not to answer

23 that question. She's not prepared to speak to it

24 today. And it's not because it's not covered by

25 her topics. 03:43:57

1 Maybe if I can add one thing, 03:43:58
2 Special Master Garrie, that may be helpful.
3 The -- the -- under compulsion, Facebook
4 provided a ton of material, as you know, on ADI,
5 which was a review of this very question which now 03:44:41
6 they have. That is not a topic. And that --
7 because that -- and that was focused on in review
8 of whether or not -- the very question that --
9 that -- that Mr. Ko asked, which is did third
10 parties continue to access friend data after the 03:44:58
11 deprecation and accountability. So it's just not
12 one of the -- the topics --
13 MS. WEAVER: Can I ask one question?
14 SPECIAL MASTER GARRIE: Well, no, no, no.
15 One -- one defendant and one take. I apologize, 03:45:11
16 Counsel. We were -- unless -- was that the
17 witness -- I can't see people who are muted.
18 But one take, one defendant. I,
19 apologize, Counsel Weaver, that's the standard
20 here. 03:45:19
21 So I don't believe she's prepared --
22 the -- the witness is prepared to answer your
23 question, Counsel Ko, at this point, in capacity as
24 a 30(b)(6) witness on behalf of the company. She's
25 here, so -- 03:45:43

1 MR. KO: And I -- 03:45:44

2 SPECIAL MASTER GARRIE: And I -- I

3 understand your position and -- and I note it. And

4 I understand it.

5 We haven't heard if she will answer or 03:45:50

6 not. So before we advance further down the path,

7 Ms. Hendrix, I -- I have to -- if I look like I'm

8 looking away, it's because I have two monitors and

9 I'm just trying to read the prior testimony on that

10 to see if you actually -- what your answer was. 03:46:11

11 Directing her not to answer -- okay.

12 Before --

13 MR. KO: The question was at 3:35,

14 Special Master Garrie.

15 "After May of 2015 certain third parties 03:46:36

16 continued to access friend data, correct?"

17 SPECIAL MASTER GARRIE: Okay. Well, in

18 the off chance, Ms. Hendrix, are you going to -- do

19 you want -- I -- are -- you've been instructed by

20 your lawyer, are you going to answer the question? 03:47:11

21 THE DEPONENT: I thought I had said

22 earlier, I don't remember the precise -- I don't

23 remember the precise date. I think that it's

24 actually referred to in the FTC order.

25 But to point you to a public, you know, 03:47:26

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1 document, but -- I don't remember. I just 03:47:28
2 know that -- and I also would like to -- for the
3 record, I never said grace period. And we don't
4 refer to our breaking changes as grace periods.

5 So I'd like to correct that. And I 03:47:38
6 haven't been doing this also my entire life, I'd
7 like to correct. I have only been doing this since
8 I joined in October of 2008.

9 But all of the relevant disclosures and
10 privacy settings that needed to be in place were -- 03:47:52
11 I can testify with 100 percent, that they stayed in
12 place and changes were made once that we were
13 certain no longer friend information or friend
14 permissions were being made available to
15 third-party apps. 03:48:08

16 SPECIAL MASTER GARRIE: That's
17 sufficient.

18 Counsel Ko, next question.

19 THE DEPONENT: Thank you.

20 Q. (By Mr. Ko) Okay. With respect to 03:48:17
21 topic 2d, Ms. Hendrix, are you prepared to testify
22 on that topic as it relates to friend sharing and
23 the deprecation of -- of friend sharing in
24 connection with Graph v2?

25 A. I believe I am. 03:48:40

1 Q. Great. 03:48:48

2 So since you are prepared to testify on

3 that topic, are you aware of any third parties that

4 continue to access friend data following the

5 deprecation of -- of friend sharing in connection 03:48:56

6 with Graph v1?

7 MR. BLUME: Objection. Same objection.

8 D is how Facebook ensured third parties'

9 use of data was limited to the use case, which is

10 policies, procedures and the enforcement of 03:49:12

11 policies and procedures.

12 MR. KO: Is there anything, Mr. Blume in,

13 topic 2 that refers to policies and procedures?

14 I don't know why you keep raising that.

15 MR. BLUME: It -- it relates to the 03:49:23

16 category -- identification of type of data or

17 information to which Facebook sold, which it didn't

18 as she testified, made accessible, made available

19 or allowed. So it's not what actually occurred,

20 what the third parties specifically did. 03:49:35

21 But the type of data, including d, how

22 Facebook ensured that the use of that data was

23 limited to the use case, which is enforcement

24 mechanisms behind the policies. It's not which

25 third parties -- what third parties were doing 03:49:52

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1 when. 03:49:54

2 MR. KO: Now I am going to request,

3 Special Master Garrie, that we go off the record

4 because we've been talking about this point for

5 15 minutes and I have a suggestion as to how to 03:50:01

6 move forward.

7 SPECIAL MASTER GARRIE: Okay. We'll go

8 off the record for -- but when we go back on the

9 record, I'm going to rule.

10 MR. KO: Yup. Thank you. So I -- can we 03:50:15

11 do it this way, Special Master Garrie? If -- if --

12 if this --

13 (Brief interruption.)

14 MR. KO: I'm sorry. Sorry.

15 THE COURT REPORTER: John, go off. 03:50:23

16 THE VIDEOGRAPHER: You guys want to go

17 off the record, just to be sure?

18 SPECIAL MASTER GARRIE: Off the record.

19 Thank you.

20 THE DEPONENT: Thank you. We're off the 03:50:32

21 record. It's 3:50 p.m.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We're back on the

24 record. It's 4:09 p.m.

25 Q. (By Mr. Ko) Ms. Hendrix, thank you for 04:09:58

1 allowing the lawyers and Special Master Garrie to 04:09:59
2 do their legal thing. But I just want to make sure
3 that the record is clear with respect to your
4 answer to the following question.

5 With respect to topic 2d or 3c, are you 04:10:11
6 prepared to testify on either of these topics as
7 they relate to friend sharing and the deprecation
8 of friend sharing in connection with Graph v2?

9 MR. BLUME: Yes, she is. And we said
10 that at the outset. 04:10:38

11 MR. KO: I was asking Ms. Hendrix, not
12 you --

13 (Simultaneously speaking.)

14 MR. BLUME: But it's a -- it's a legal --
15 it's a legal question on prepare. You already 04:10:41
16 asked that in the third question of the day.

17 Yes, she's prepared to do that, except as
18 it relates to targeted advertising.

19 Q. (By Mr. Ko) Ms. Hendrix, can you answer
20 that question? 04:10:55

21 MR. BLUME: It's -- it's -- okay. You've
22 asked and answered.

23 You can answer. Go ahead.

24 THE DEPONENT: It's still yes.

25 Q. (By Mr. Ko) Thank you. 04:11:06

1 And as it relates to third-party app 04:11:07
2 developers that actually continued to access friend
3 information post-deprecation of this friend
4 sharing, are you prepared to testify on that topic?

5 MR. BLUME: I'm -- objection. 04:11:24

6 THE DEPONENT: When v1 was deprecated,
7 there was no concept of requesting friend
8 permissions from people.

9 Q. (By Mr. Ko) What do you mean when you
10 say there was no concept of requesting friend 04:11:46
11 permissions from people?

12 A. I mean the product -- it just wouldn't
13 work, right. If you didn't move your app and build
14 off of v2, from a technical standpoint at
15 deprecation of v1, you could no longer call the 04:12:01
16 Graph API and receive any friend permissions.
17 There was no longer the ability to request friend
18 permissions.

19 You've said friend sharing and friend
20 data. I just want to make sure we're clear. 04:12:16
21 Because today you can ask people to share their
22 inapp friend list which returns, of course, the
23 friend -- public friend profile picture and name,
24 if that person hasn't opted out of platform.

25 So that's why this terminology is really 04:12:30

1 important here. So friend permissions, once v1 was 04:12:34
2 fully deprecated, are no longer a thing from a
3 product perspective.

4 MR. BLUME: There you go.

5 Q. (By Mr. Ko) Are you familiar with the 04:12:46
6 term whitelisting?

7 A. Yes.

8 Q. What's your understanding of that term?

9 A. It's -- it's --

10 MR. BLUME: Hold -- 04:12:54

11 THE DEPONENT: Yeah.

12 MR. BLUME: -- hold on. Now, this is
13 clearly topic 7.

14 MR. KO: That is not. You have a
15 superficial understanding of these topics, 04:13:00
16 Mr. Blume.

17 MR. BLUME: I --

18 (Simultaneously speaking.)

19 Q. (By Mr. Ko) Can you please answer that
20 question -- 04:13:06

21 MR. BLUME: Wow. Was that -- was that --
22 was that -- was that a personal insult? Wow.

23 MR. KO: No.

24 Whitelisting -- topic 7 is discuss
25 whitelisting. What -- the -- here -- the -- the 04:13:15

1 problem is you -- 04:13:17

2 SPECIAL MASTER GARRIE: One sec,

3 Counsel Blume, is your --

4 MR. KO: Note your objection.

5 SPECIAL MASTER GARRIE: Counsel Ko, 04:13:23

6 Counsel Blume, I will say it one more time. Say

7 the objection.

8 I believe the objection, Mr. --

9 Counsel Blume, you're saying is objection. Beyond

10 the scope of what this witness is here to testify 04:13:31

11 to.

12 Is that your objection or is --

13 MR. BLUME: Yeah. Well, the -- he got

14 his first answer answered. But we thought about it

15 off the record. So that's done. 04:13:41

16 But now he's moving it to what is

17 topic 7, whitelist particular apps. So I'm -- I'm

18 hard-pressed to see where that falls in her topics.

19 SPECIAL MASTER GARRIE: Is your

20 objection -- 04:13:55

21 MR. BLUME: So the objection is beyond

22 the scope.

23 SPECIAL MASTER GARRIE: Got it.

24 Counsel Ko.

25 MR. KO: Well, I mean, my position is 04:14:00

1 very consistent with how it has been before. 04:14:01

2 Mr. Blume is perfectly entitled to note
3 his objection for the record. But I would ask that
4 Ms. Hendrix answer the question regardless.

5 And more importantly, when I asked her 04:14:11
6 first if she was familiar with the term
7 "whitelisting," she said yes. And so I'm entitled
8 to understand what her understanding of that is.

9 MR. BLUME: She's -- she -- as a
10 corporate representative -- 04:14:22

11 SPECIAL MASTER GARRIE: She's here as a
12 30(b)(6) witness --

13 MR. BLUME: Yeah.

14 SPECIAL MASTER GARRIE: -- on specific
15 issues, Counsel Ko. So if they relate to the 04:14:27
16 topics at issues, she is here to testify, please
17 show me the topic and issue she -- and how -- where
18 whitelist is stated. And then I can then issue a
19 ruling on whether or not I will order the witness
20 to answer the question or not. 04:14:45

21 MR. KO: Special Master Garrie,
22 Facebook's monitoring and enforcement of third
23 parties is obviously related to both the continual
24 access of friends data and relatedly the
25 whitelisting by Facebook of certain third parties 04:14:59

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1 to continue to access that data. 04:15:03

2 So the monitoring and enforcement of user
3 information is fundamentally related to the
4 whitelisting of these permissions.

5 In addition, topic 2d indicates how 04:15:14
6 Facebook ensured third parties' use of data or
7 information was, in fact, limited to the use case.

8 If there were whitelisting or exceptions,
9 or any other special permissions that continued on
10 and that Facebook continued to allow third parties 04:15:30
11 to access, I am certainly entitled to explore and
12 elicit testimony regarding how Facebook monitored
13 and enforced those third parties.

14 SPECIAL MASTER GARRIE: Can you read back
15 the question, Court Reporter. 04:16:07

16 MR. KO: I believe it was the question at
17 4:12:54, Rebecca.

18 THE COURT REPORTER: So I'll read the
19 question before that.

20 (Record read as follows: 04:16:44

21 "QUESTION: Are you familiar with the
22 term whitelisting?

23 "ANSWER: Yes.

24 "QUESTION: What's your understanding
25 of that term?") 04:16:44

1 MR. BLUME: If I may be heard? 04:16:47

2 MR. KO: I mean, the idea,
3 Special Master Garrie, is that I can't lay any
4 foundation --

5 SPECIAL MASTER GARRIE: No, wait. Stop. 04:16:54

6 I haven't ruled to -- just because I haven't --
7 as -- as it relates to the topics you're here to
8 testify about as whitelisting relates to those
9 topics, Ms. Hendrix, can you please answer the
10 question. 04:17:09

11 I note your objection, for the record,
12 Counsel Blume, but it's overruled.

13 As it relates to the topics you're here
14 to speak to, please provide your answer to the
15 question. 04:17:20

16 THE DEPONENT: I just don't understand
17 how it relates to monitoring and enforcement. If
18 friend permissions have been deprecated, then
19 there's no friend permissions to review, for
20 example, at app review, because developers from a 04:17:35
21 product technical perspective can't answer it. So
22 it doesn't make any sense. It's not -- it's not
23 related to why I'm here.

24 Q. (By Mr. Ko) Okay. Are you prepared, in
25 connection with any of the topics that you have 04:17:50

1 been designated to speak on -- about, are you 04:17:53
2 prepared to testify on behalf of Facebook as to any
3 aspect of whitelisting at all?

4 MR. BLUME: You asked -- just asked that
5 question and she just answered it. 04:18:08

6 MR. KO: Stop, Mr. Blume.

7 SPECIAL MASTER GARRIE: No, you got to
8 object, Counsel Blume, or let the question --

9	MR. BLUME: Asked and answered. It	
10	was --	04:18:17

11 SPECIAL MASTER GARRIE: Answer the
12 question.

13 MR. BLUME: Special Master Garrie, it was
14 the question you just asked her.

15	SPECIAL MASTER GARRIE: Well --	04:18:26
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16 MR. BLUME: Answer is the same. You can
17 answer again.

18 THE DEPONENT: I -- I agree that -- that
19 my response to Special Master Garrie's question is
20 accurate. And I don't see how whitelisting is 04:18:36

21 relevant to the topics on why I'm -- I'm here
22 today. Like I don't -- I don't see it. And I'm
23 not trying to be evasive. I just don't understand.
24 And I feel like Mr. Ko just might not understand.

25 O. (By Mr. Ko) Yeah. And -- and I'm -- I'm 04:18:53

1 trying to be very precise with my words. And I
2 understand that you don't believe it's relevant.
3 And so it's just a simple yes-or-no question, for
4 the record.

04:18:54

5	Are you prepared --	04:19:02
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6 SPECIAL MASTER GARRIE: Go ahead.

7 MR. KO: Do you have an objection, Rob?

8 MR. BLUME: Yes. Asked and answered now
9 a third time. This is just wasting time.

10 Q. (By Mr. Ko) Not- -- notwithstanding 04:19:16

11 Mr. Blume's cracks on the record, are you prepared,

12 Ms. Hendrix, to testify on any aspect of

13 whitelisting as it relates to the topics you have

14 been designated to testify on behalf of Facebook

15 for. 04:19:35

16 MR. BLUME: Objection.

17 Special Master Garrie, does she have to
18 now answer that a third time?

19 SPECIAL MASTER GARRIE: Did you -- was
20 the answer in the affirmative, Ms. Hendrix? 04:19:51

21 I believe it was the first time. The
22 second time, I'm not sure. The third time, I
23 believe it was yes, but she's -- you're not sure
24 how -- I'm -- can you just -- was it affirmative,
25 yes? 04:20:02

1 I'm just -- I'm confused at this point. 04:20:02
2 Just yes or no.
3 THE DEPONENT: I said yes to the specific
4 question of whether I'm familiar with the topic of
5 whitelisting, which is not a defined term. 04:20:12
6 SPECIAL MASTER GARRIE: No, no, no.
7 That's not -- that's not the question.
8 All I'm interested in is, are you -- the
9 question was, are you prepared to testify on any
10 aspect of whitelisting as it relates to what you 04:20:24
11 have been designated to testify on behalf of
12 Facebook for.
13 THE DEPONENT: I --
14 MR. BLUME: Shall I read her answer?
15 She doesn't -- it doesn't -- one thing 04:20:39
16 doesn't relate to the other. That's what she's
17 saying. She says "I don't understand how it
18 relates."
19 And I think the problem,
20 Special Master Garrie, is that I don't think Mr. Ko 04:20:45
21 understands the concept and so -- which she said
22 now three times, "I don't understand how it relates
23 to monitoring and everyone. If friend permissions
24 have been deprecated, then there's no friend
25 permissions to review." 04:20:57

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1 SPECIAL MASTER GARRIE: Well -- 04:20:58

2 MR. BLUME: And so it doesn't relate to

3 her topics. It just doesn't relate. It's the

4 concept and that's -- my fear is that Mr. Ko

5 doesn't understand the concept of whitelisting and 04:21:05

6 so he's saying it --

7 SPECIAL MASTER GARRIE: Okay. Then wait

8 a second. We can fix this.

9 Can we -- define -- could you please

10 define, Ms. Hendrix, what whitelisting is for you? 04:21:15

11 MR. KO: The question that I had --

12 MR. BLUME: Personally. But not --

13 not a -- not as a corporate representative. How --

14 what she means -- what she --

15 (Simultaneously speaking.) 04:21:21

16 SPECIAL MASTER GARRIE: What she

17 understands in her capacity -- well, he -- she was

18 asked whether she is prepared to speak to

19 whitelisting in response to any of the topics she

20 is here to speak to today. 04:21:30

21 What was stated is, she doesn't

22 understand how whitelisting applies to what she is

23 here to speak about today.

24 I'm asking her to explain to me her

25 definition of whitelisting. So that way I can 04:21:41

1 then -- we can move forward because I don't -- so 04:21:45
2 can you please answer the question?
3 MR. BLUME: Well, with all due respect,
4 Your Honor, it's how we prepared her. It -- it's
5 whether or not we -- she is sufficiently adequately 04:21:54
6 prepared.
7 We have obligations under the rules to
8 adequately prepare the witness pursuant to the
9 topics as stated. Her personal understanding
10 mean -- may mean nothing. There is a 04:22:02
11 topic specifically --
12 SPECIAL MASTER GARRIE: I -- I
13 understand. My point is --
14 MR. BLUME: So --
15 SPECIAL MASTER GARRIE: -- that as -- as 04:22:07
16 it's defined, how -- however -- as the corporate
17 representative, how -- do you not believe
18 whitelisting relates in any way to what needs --
19 MR. BLUME: It's defined --
20 SPECIAL MASTER GARRIE: -- that you have 04:22:18
21 been designated to speak about it on.
22 MR. BLUME: It's defined in the document.
23 SPECIAL MASTER GARRIE: Well, I'd like an
24 answer to my question, Ms. Hendrix.
25 THE DEPONENT: Well, do -- do they -- 04:22:32

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1 does the plaintiffs' counsel -- do they define 04:22:32
2 it -- I mean, do you want me to read their
3 definition, if the answer is yes to that first
4 question and then try to respond?

5 SPECIAL MASTER GARRIE: That would be -- 04:22:40
6 I thought the definition of whitelisting was
7 actually in the deposition notice. So that's what
8 I've been operating under the understanding of what
9 it is, but that -- so maybe -- is it not there,
10 Counsel Blume? 04:22:52

11 MR. BLUME: No, it --
12 (Simultaneously speaking.)

13 MR. KO: So also I --

14 MR. BLUME: -- whitelisted partners --
15 it's defined as -- in -- in -- I'm not sure the -- 04:22:54
16 the -- on page 10 -- in -- and a part- -- a
17 whitelisted partner is "any entity or person
18 provided access to a capability, such as permission
19 to read or write information via a specific API
20 call, that was not provided to all entities or 04:23:11
21 persons."

22 SPECIAL MASTER GARRIE: Right. So with
23 that understanding and that definition, Mr. Ko's
24 question is -- because I've == I've been operating
25 with that definition. But apparently maybe this 04:23:29

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1 isn't -- but the question was, from Mr. Ko, 04:23:34
2 Ms. Hendrix -- are you prepared, Ms. Hendrix, to
3 testify in any aspect of whitelisting as it relates
4 to what you have been designated to testify on
5 behalf of Facebook, using the definition that was 04:23:54
6 just read into the record?

7 THE DEPONENT: Thank -- thank you for
8 pointing this out to me. And -- and I don't have
9 any -- I -- I don't -- sorry that I didn't recall
10 that that was in there. 04:24:08

11 I don't, sitting here today, think that
12 there is any relevancy with respect to anything
13 that I've been told to -- to be prepared for that
14 relates to any of those topics.

15 I can swear under oath that I just -- 04:24:24
16 sitting here today, I -- I struggle to come up with
17 anything.

18 MR. BLUME: It's not that she's not
19 prepared. It just doesn't apply.

20 SPECIAL MASTER GARRIE: Well -- 04:24:34

21 MR. BLUME: That's the difference.

22 SPECIAL MASTER GARRIE: Well, you're --
23 you're -- Counsel Blume, he's entitled to ask the
24 question and she's entitled to answer the question,
25 whether whitelisting is appropriate, in her view, 04:24:47

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1 as the witness that she designated by Facebook and 04:24:49
2 is prepared to speak to that.

3 And if her -- her position is, "No, it's
4 not, and I don't understand why," which is what she
5 has said. So we can move forward. 04:24:58

6 MR. KO: This is all -- this is all --
7 Special Master Garrie, this is all sort of
8 insanity, if you will, as well, because --

9 SPECIAL MASTER GARRIE: No, no
10 adjectives. Let me be very clear so there's no -- 04:25:11
11 ambiguity here.

12 There cannot be another -- you need to
13 take more time to think about what you're going
14 to -- the words you're going to use. We are going
15 to curb our words. You will not use insanity -- 04:25:19
16 you will use constructive terms for any question --
17 any words you want that will not further ex- --
18 agitate or result in further future frustration.

19 MR. KO: Noted. I -- I apologize. And I
20 apologize that I am so frustrated today. 04:25:36

21 I have -- the point I wanted to make,
22 Special Master Garrie, was I had asked the
23 question, "Are you familiar with the term
24 whitelisting?" The answer was "Yes."

25 The next question was, "What is your 04:25:49

1 understanding of that term?" And that is what led 04:25:51
2 to this -- another 20 minutes on the record of back
3 and forth to a very basic question.

4 SPECIAL MASTER GARRIE: Well --

5 MR. KO: And, of course, all of my 04:26:03
6 questions relate to Ms. Hendrix' capacity as a
7 30(b)(6) witness.

8 And, again, Mr. Blume can object for the
9 record, but he certainly cannot instruct the
10 witness not to answer as he had. That is 04:26:14
11 completely improper.

12 MR. BLUME: I can, actually.

13 SPECIAL MASTER GARRIE: Yeah.

14 MR. BLUME: I actually can.

15 MR. KO: Only with respect to privilege, 04:26:19
16 not with respect to --

17 MR. BLUME: That is not the rules.

18 SPECIAL MASTER GARRIE: No, for
19 30(b)(6) --

20 MR. BLUME: No -- 04:26:22

21 SPECIAL MASTER GARRIE: With -- with
22 regards to 30(b)(6) --

23 MR. BLUME: It's not the rules.

24 SPECIAL MASTER GARRIE: -- you can --
25 because the witness is here to testify on certain 04:26:26

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1 subjects, under the case law in the Ninth Circuit, 04:26:28
2 they -- they have to preserve their rights because
3 the witness's testimony can be called at trial
4 accordingly. So he is obligated to make sure that
5 the witness testifies only on the subjects that 04:26:41
6 they are before or been designated as.

7 I -- I -- I -- I believe the case --
8 don't quote me, but I want -- there's a Ninth
9 Circuit case that brings them in line with all the
10 other circuits. I can't remember it, as I sit here 04:27:00
11 now.

12 So he is entitled to and -- and needs to
13 rate -- and note the objection for the record. And
14 instruct the witness because the statements are
15 binding. 04:27:14

16 MR. KO: Special Master Garrie, do you
17 mind -- I -- I -- I believe when -- on the
18 record -- I mean, Ms. Hendrix, unfortunately,
19 you -- you've been relieved at some periods of time
20 for the last hour and a half. 04:27:32

21 But I'm dealing with a bit of a personal
22 emergency. So I -- I was hoping that -- to take
23 five minutes to address this, and then we can get
24 back on the record, if you wouldn't mind.

25 SPECIAL MASTER GARRIE: Yeah. Somebody 04:27:45

1 please open the breakout rooms so everybody can 04:27:46
2 take time to -- five minutes. And we'll reconvene
3 in five minutes.
4 THE VIDEOGRAPHER: Okay. We're off the
5 record -- we're off the record. It's 4:28 p.m. 04:27:56
6 (Recess taken.)
7 THE VIDEOGRAPHER: We're back on the
8 record. It's 4:40 p.m.
9 SPECIAL MASTER GARRIE: Ready to go back
10 on the record? 04:40:58
11 MR. BLUME: Yes.
12 SPECIAL MASTER GARRIE: No. Counsel Ko,
13 was that a yes from you?
14 MR. KO: Yes.
15 SPECIAL MASTER GARRIE: All right. We're 04:41:03
16 going to go back on the record. I want to make --
17 I want to make another statement before anybody
18 says anything.
19 Let's go back on the record.
20 THE VIDEOGRAPHER: Thank you. We're back 04:41:13
21 on record. It's 4:41 p.m.
22 MS. WEAVER: Okay. This is the
23 Special Master and I'm going to remind counsel
24 again, do not talk over each other or I will make
25 all of these be in person. So we can keep 04:41:22

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1 clear, I believe, on the record, with all due 04:42:51
2 respect, that I am prepared to speak to the topics.
3 And based on the definition here of whitelisted
4 partners, and, again, saying for the record, that
5 we do not have a fixed definition, as a corporate 04:43:06
6 company, precisely of what that means. It can mean
7 different things to different people. I am not
8 able, sitting here today -- after reviewing the
9 topics multiple times -- able to provide any
10 information that I think is at all relevant on my 04:43:22
11 understanding and this definition of whitelisting
12 to those topics.

13 Q. (By Mr. Ko) Thank you for making that
14 clear.

15 Now, with respect to the policies and 04:43:35
16 procedures that I believe your counsel has
17 indicated you can testify as to, are there any
18 policies and procedures that relate to third
19 parties' use of friend -- use of user information
20 beyond the use case? 04:43:55

21 A. I need to refresh my -- use case refers
22 to the purpose for any entity to obtain user data.

23 And then your question again. I -- I'm
24 sorry.

25 Q. With respect to the policies and 04:44:14

1 procedures that I believe you are prepared to 04:44:15
2 testify on, are there any policies and procedures
3 that relate to third parties' use of user
4 information beyond the use case?

5 A. What -- wait. Isn't that the opposite of 04:44:36
6 what you asked me?

7 Like are you asking what policies and
8 monitoring procedures are in place that relate to
9 user data --

10 Q. I don't know what your -- 04:44:47

11 A. -- for use case?

12 Q. I don't what understanding you have of --
13 of my previous question. But I'm simply asking you
14 this question.

15 With respect to the policies and 04:44:53
16 procedures that I believe you are prepared to
17 testify on, are there any policies and procedures
18 that relate to third parties' use of user
19 information beyond the use case?

20 MR. BLUME: Objection. 04:45:07

21 THE DEPONENT: There are policies with
22 respect to the use of friend data and they exist
23 today because we still allow you to share your
24 inapp friends list.

25 And in terms of monitoring for user 04:45:31

1 information then, yes, there's an app review team. 04:45:36
2 And there's other teams within DevOps that review
3 apps for compliance with those policies governing
4 use of user information.
5 Q. (By Mr. Ko) And those policies that 04:45:57
6 govern the use of user information, what are they?
7 And to be helpful --
8 A. Well --
9 Q. -- I'm referring to the specific ones
10 that you just mentioned in your prior response. 04:46:12
11 A. Well, I didn't mention specific policies.
12 I just said, you know, there's still a friend --
13 there are still -- a friend -- friend-related
14 policies because the login product still allows you
15 to access inapp friend lists. 04:46:32
16 So there are friend-specific
17 provisions -- I believe there's two -- that relate
18 to use of friend information. And then there's
19 other policies for use of user information in the
20 platform terms and the developer policies, and the 04:46:49
21 term -- terms of service perhaps elsewhere. But
22 for the relevant topics, that's the locations that
23 come to mind.
24 Q. Any other policies that you can think of
25 that contain this information? 04:47:02

1 MR. BLUME: Objection. Form. 04:47:05

2 THE DEPONENT: I don't have anything
3 further to add in response to what I said.

4 Q. (By Mr. Ko) Given your understanding of
5 the term "whitelisted apps," as indicated in this 04:47:24
6 notice, are you aware of whether or not the -- the
7 SRR ever indicated at any time that Facebook was
8 going to allow whitelisted partners to continue
9 making specific API calls with respect to friend
10 data? 04:47:57

11 MR. BLUME: Objection. Form.

12 THE DEPONENT: I -- I -- it's hard for me
13 to answer your question because I don't like the
14 way you worded it. So it's hard for me to do like
15 yes or no. 04:48:15

16 Q. (By Mr. Ko) What -- what part of the
17 question did you not like?

18 A. I' -- I'm going to need you to restate
19 it.

20 Q. You -- you have a certain understanding 04:48:29
21 of whitelisted partners; you had indicated that to
22 me earlier, right?

23 A. Yes. And -- and I believe that I'm
24 supposed to, for my purposes today, adopt this
25 description in No. 26; is that correct? 04:48:42

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1 Q. Given -- given the definition of 04:48:49
2 whitelisted partners, or whitelist, or whitelisted,
3 or whitelisting, as indicated in paragraph 26 of
4 the notice, do you know whether or not the SRRs at
5 any time ever indicated that Facebook was going to 04:49:02
6 whitelist certain apps and permit them to continue
7 accessing friend information after 2014?

8 MR. BLUME: Objection. Form.

9 THE DEPONENT: That would not be anything
10 in the SRR. 04:49:20

11 Q. (By Mr. Ko) Same question with respect
12 to the data use policy or all iterations thereto.

13 Did -- did the data use policy at any
14 time ever indicate that Facebook was going to
15 whitelist certain apps and permit them to continue 04:49:38
16 accessing friend data after 2014?

17 MR. BLUME: Objection. Form.

18 THE DEPONENT: The data use policy at all
19 times during the relevant period made clear to
20 people what data was available through the 04:49:53
21 platform.

22 So like I said, to the extent the v1 apps
23 were still live, regardless of when they were
24 deprecated, those disclosures were there in
25 multiple locations, including the controls and 04:50:06

1 settings that people had to control their 04:50:11
2 information. We never removed those disclosures
3 until it was no longer relevant to people.

4 Q. (By Mr. Ko) And I know you testified
5 that you don't recall exactly when that occurred. 04:50:24

6 But with respect to the rolling out of v2
7 or Graph v2, when that occurred, was there any
8 aspect of the data use policy that ever indicated
9 that Facebook was going to whitelist certain apps
10 and permit them to continue accessing friend data? 04:50:44

11 MR. BLUME: Objection.

12 THE DEPONENT: I don't believe that we
13 would have communicated that in the data use
14 policy.

15 Sorry. I -- I hear myself speculating. 04:51:02
16 I'm having afternoon fatigue.

17 That just wouldn't be the location.
18 The -- the -- that's not the purpose of the data
19 use policy.

20 Q. (By Mr. Ko) So the -- to be the clear, 04:51:13
21 the data use policies did not disclose or reflect
22 any indication that Facebook was going to whitelist
23 certain apps and permit them to continue accessing
24 friend data, correct?

25 MR. BLUME: Asked and answered. 04:51:26

1 THE DEPONENT: The -- the data use policy 04:51:40
2 told people, including the product itself, right.
3 So when a user goes to log in, they would see that
4 the app was requesting friend information, right.
5 And the user's friends were still able to see that 04:51:53
6 they could, unless they opted out of platform,
7 enable their friends who choose to use platform and
8 log in to apps.
9 So all of facts with respect to how it
10 worked were available to people at all times 04:52:06
11 through both the product, and the user experience
12 by using the product, and through the privacy and
13 app settings and pri- -- data use policy and help
14 center, and all of the educational tools that we've
15 discussed throughout the day, always made it clear 04:52:23
16 that that was how the platform worked.
17 Now, a subset of the platform that's
18 developing on v2 worked in a different way. But
19 it's more important to tell people what's happening
20 with the v1. 04:52:41
21 Q. (By Mr. Ko) So in connection with the
22 data use policy, was there ever a disclosure at any
23 time over the relevant time period that Facebook
24 was going to whitelist certain apps and permit them
25 to continue accessing friend data? 04:52:58

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1 MR. BLUME: Objection. Form. 04:53:01

2 THE DEPONENT: I don't -- I don't know.

3 I'm -- I -- I am sure we have versions I could find
4 out. I don't believe that we would have done so,
5 because it's not the right document. That's... 04:53:15

6 Q. (By Mr. Ko) Regardless of whether or not
7 it was the right document and you -- you have -- I
8 mean, we provided your counsel, and it sounds like
9 to you, ultimately, a copy of -- or at least a
10 reference to the fact that we were going to discuss 04:53:34
11 the data use policy, among the other policies that
12 are applicable to users in this case.

13 Did you, in fact, review the data use
14 policies in connection with preparing for this
15 deposition? 04:53:51

16 A. I testified earlier today that I reviewed
17 multiple versions of the data use policies. I am
18 sitting here today to tell you I don't believe that
19 the contents of any of those versions would have
20 included any topics pertaining to the word 04:54:05
21 "whitelist" because that, again, is not what
22 privacy policies or data use policies for Meta
23 purposes.

24 That's not the -- the -- that's not the
25 place I would put it, but I don't recall having 04:54:18

1 seen it in the -- all of the versions that I did 04:54:21

2 review.

3 Q. And in connection with the data use
4 policies that you reviewed and were in place over
5 the relevant time period, was there ever any 04:54:32
6 indication or disclosure that in those data use
7 policies, that Facebook was going to permit certain
8 third parties to access certain friend information
9 about a user in connection with Graph v2?

10	MR. BLUME: Objection. Form.	04:55:00
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11 THE DEPONENT: To try to be helpful, like
12 there -- there was no disclosure that certain apps
13 would no longer have access to friend information.

14 MR. KO: That is helpful. Thank you.

15	THE DEPONENT: And, again, I should	04:55:21
16	correct myself.	

17 All apps, even to today, can get certain
18 friend data. So I should have said friend
19 permissions. But I -- I -- I just wanted to
20 clarify that point. 04:55:34

21 Q. (By Mr. Ko) And when you say that
22 certain apps can continue to -- continue to get
23 friend data to this day, you are just talking about
24 the carve-out that you had described before, the
25 inapp friend lists, correct? 04:55:48

1 A. Yes, through the APIs. Because keeping 04:55:49
2 in mind there's other methods by which friends
3 can -- and -- and we disclose that to people when
4 we tell them to be mindful of what they share with
5 their friends. So if we're just talking about the 04:56:02
6 platform, then that's correct.

7 Q. Any other friend information, other than
8 the inapp friend list, on the platform that a
9 third-party app developer can access today?

10 A. Ever since v2, there has not been any 04:56:18
11 friend permissions built, whether via a public API
12 or a private, or partner, rather, API. Like I -- I
13 can confirm that -- that that friend permissions
14 have gone away.

15 Q. Does the term -- or are you familiar with 04:57:04

16 the term "integration partner"?

17	A. I am.
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18 Q. What is your understanding of that?

19 A. Those are -- those are service providers
20 who build and -- they -- let's use -- I think I can 04:57:22
21 better respond with an example.

22 Like Facebook is available on BlackBerry
23 and BlackBerry is an integration partner and --
24 well, was available. And so integration partners
25 are people -- are partners who enabled you to

04:57:38

1 replicate Facebook on your -- on their devices. So 04:57:42
2 people could have -- so -- so I guess put
3 differently, if you don't have -- if you don't have
4 an integration partner, then you can't use Facebook
5 on BlackBerry. It just doesn't technically work. 04:57:56

6 So they -- they replicate Facebook for
7 people so they can use Facebook on other things,
8 
9 example.

10 Q. Are you aware of whether or not any 04:58:15
11 integration partners continue to access friend data
12 after 2014?

13 MR. BLUME: Objection. Beyond the scope.

14 THE DEPONENT: Hum?

15 MR. BLUME: Hold on. 04:58:34

16 THE DEPONENT: Okay. Sorry.

17 MR. BLUME: Same question with regard --
18 I mean, integration partners, third party.

19 Instruct you not to answer. Beyond the
20 scope. 04:58:40

21 Q. (By Mr. Ko) Are you going to follow that
22 instruction?

23 A. Yes.

24 Q. Are you aware of whether or not the SRR,
25 or any iteration thereto, ever indicated at any 04:58:57

1 time that Facebook was going to permit certain 04:59:03
2 integration partners to continue accessing friend
3 data after 2014?

4 MR. BLUME: Objection.

5 THE DEPONENT: I'm aware that even from 04:59:18
6 the relevant period up until today, there is a
7 service provider section within the context of the
8 data use policy which is directly incorporated by
9 reference in the terms of service and/or SRR. And
10 that explains very clearly that there are service 04:59:31
11 providers who help us provide services, such as our
12 products -- I -- I'm -- not quoting me on the
13 language -- and then those integration partners,
14 for example, would be agreeing to terms.

15 And those terms had provisions on user 04:59:45
16 data which required those partners to be very clear
17 about what it was they were collecting and how they
18 were going to use the information. And that could
19 only be used in accordance with our agreements with
20 those integration partners, which was to provide 04:59:58
21 Facebook, for example, on the BlackBerry service --
22 app phone, rather.

23 Q. (By Mr. Ko) So your understanding of --
24 sorry.

25 So your understanding of integration 05:00:12

1 partners and your description of integration 05:00:14
2 partners is that they fit under the umbrella of the
3 service provider language and the data use policy?
4 A. Say that again. You cut out.
5 Q. The description of integration partners 05:00:30
6 that you have provided, is it your understanding
7 that they would fit under the umbrella of the
8 service provider language in the data use policy?
9 A. It does.
10 Q. So does -- do the -- I think I know the 05:01:00
11 answer to this question, but I'm -- I'm going to
12 ask it nonetheless so that the record is clear.
13 Did the data use policies ever indicate
14 at any time that Facebook was going to permit an
15 integration partner to continue accessing friend 05:01:15
16 data after 2014?
17 A. There's too much weaving of concepts
18 going on in your question.
19 The -- the data use policy --
20 Q. It's a complicated case. 05:01:31
21 A. Sorry. Go ahead.
22 Q. Go ahead. Sorry. I didn't mean to
23 interrupt.
24 A. The data use policy told people about the
25 Facebook platform and how they could control their 05:01:40

1 information with applications on -- that use the 05:01:43
2 Facebook platform.

3 But there's also another section and I
4 believe it's been mostly referred to as service
5 providers and/or just added upon that which is 05:01:55
6 another paragraph, which is different and distinct.
7 And that is telling people that we have certain
8 partners. I -- you know, I'd have to pull up the
9 precise language -- that help us provide our
10 products. 05:02:11

11 And so the example in that service
12 provider section that I'm referring to is that
13 these integration partners allow users to access --

14 [REDACTED]

15 [REDACTED]

16 Like when they're on using that -- playing that
17 game and they beat their friends, they could,
18 because of their service provider relationship with
19 us, enable people to share on Facebook some story.

20 Maybe that they beat their friend in a game or that 05:02:42
21 they, you know, beat Super Mario Brothers, for
22 example.

23 Q. So is it your testimony that there were
24 aspects of the data use policy that communicated to
25 users that service providers, including but not 05:02:54

1 limited to integration partners, continue to access 05:02:58
2 information about a user's friend; is that fair to
3 say?

4 MR. BLUME: Objection. Form.

5 Objection. Form. 05:03:06

6 THE DEPONENT: I don't remember if the
7 word "integration" was in there. But the word
8 "partners" is in there. And the first sentence
9 of -- of multiple versions, if not all of them, is
10 very clear to people. That we have partners that 05:03:18
11 help us provide access to and provide -- and to
12 Facebook's products, like to improve them.

13 I should stop rambling on what it says
14 and actually refer to the precise language. But
15 it's always been clear. 05:03:33

16 Q. (By Mr. Ko) Is there language in the
17 data use policy that reflects -- that reflects how
18 Facebook would control, or not control, the
19 information that a third party would acquire about
20 a user or a user's friend? 05:03:55

21 MR. BLUME: Objection. Form.

22 THE DEPONENT: The data use policy has
23 always told people about what third-party
24 applications can access through our platform and
25 what -- including the information that their 05:04:11

1 friends can share. It's always been clear. 05:04:14

2 Q. (By Mr. Ko) Is there anything in the
3 data use policy that reflects any language about
4 how Facebook would monitor or enforce the use of
5 that information once it was acquired by that 05:04:32
6 third party?

7 A. So the answer is yes, there's information
8 about the fact -- not -- I -- I really should
9 answer yes to your question.

10 So the -- the data use policy tells 05:04:49
11 people to be careful about what -- and the terms of
12 service -- tells -- tells people to be careful what
13 it is that they're sharing and be aware of the
14 information they share. Not just with their
15 friends, but with -- with applications. 05:05:06

16 And that those applications are required
17 to respect the user's privacy, but to be -- very
18 closely to read their terms of service because the
19 developer also has terms for use of their
20 third-party application. 05:05:21

21 So it cautions people. So there's
22 relevant language always in the relevant period on
23 the topic of the fact that developers are required
24 to respect their privacy policy -- their privacy,
25 and for people to read the terms and policies of 05:05:35

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1 the developer because they govern the developer's 05:05:39
2 use of the information that the person is choosing
3 to share.

4 Q. And how did Facebook ensure that third
5 parties were, in fact, required to respect the 05:05:50
6 user's privacy?

7 MR. BLUME: Objection. Form.

8 THE DEPONENT: Through our agreements
9 with -- like we ensured it because the developers
10 contractually agreed and are obligated to adhere to 05:06:04
11 those terms. So in terms of requiring -- like that
12 is the agreements that we had with developers and
13 the provisions included therein required developers
14 to follow our terms and respect and comply with
15 their own privacy policies. 05:06:24

16 Q. (By Mr. Ko) And those contractual
17 agreements -- I assume you're talking about the
18 platform policy?

19 A. The platform terms and developer policies
20 today and any other applicable provision, to the 05:06:38
21 extent there is one. But, yes, those are the
22 primary terms.

23 Q. Are there any aspect -- are there any
24 policies, other than the platform terms and
25 developer policies, or the platform policy before 05:06:54

that, that reflects this contractual agreement

between Facebook and a third-party app developer,

as to how they would go about respecting a user's

privacy?

5	MR. BLUME: Objection.	05:07:18
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6 THE DEPONENT: So the terms, the SRR
7 have -- have disclosures that there's other
8 provisions. And at the very bottom of them, it
9 tells people that there could be additional terms
10 and policies. And it has -- incorporates by 05:07:40
11 reference the platform terms. And in the relevant
12 period, the platform policies.

13 So it makes people aware that there are
14 terms of use for developers who use our platform
15 and -- so that's the SRR. And then for the data 05:07:55
16 use policy, all -- I won't repeat myself. I think
17 I went over that.

18 Q. (By Mr. Ko) So is it your testimony that
19 the SRRs link to or reference the -- the platform
20 policy or the current iteration of it, which -- 05:08:19
21 which are the platform terms and developer
22 policies?

23 A. Yes. At the -- at the bottom, it links
24 to things like the advertising guidelines and other
25 different terms associated with different products 05:08:32

1 for the use of different apps and services that we 05:08:36
2 offer and require third parties to adhere to.

3 Q. And were there specific provisions in the
4 data use policy -- or excuse me.

5 Were there specific provisions in the 05:08:48
6 platform policy or the platform terms and developer
7 policies that reflected how a third-party app
8 developer was to respect a user's privacy?

9 MR. BLUME: Objection.

10 THE DEPONENT: That's a broad statement. 05:09:12

11 But there are provisions, and always have
12 been. Like you have to have a privacy policy that
13 tells people what it is that you collect and how
14 you will use and/or share their information. You
15 have to comply with your privacy policy. You have 05:09:22
16 to not be -- don't mislead, confuse or surprise
17 people, which could pertain to our topics today.

18 So there were definitely provisions that
19 are privacy related in the formerly known as -- in
20 the platform policies and current versions of the 05:09:43
21 platform terms and developer policies, such as only
22 request the information you need to meaningfully
23 improve the user's experience.

24 So it's a broad -- privacy is a broad
25 statement, and so those are examples of privacy 05:09:57

1 related provisions. 05:09:59

2 Q. (By Mr. Ko) And with respect to the
3 provisions that you are referring to that required
4 the third-party app developers to respect the
5 user's privacy, how did Facebook monitor and 05:10:11
6 enforce those terms?

7 A. We automa- -- we -- we monitor using both
8 automated and manual means. So we have automated
9 tools that have been dynamic over the years, as
10 we've updated them or built different types of 05:10:33
11 automated monitoring tactics.

12 A good example would be we built a
13 privacy policy crawler that would help crawl and
14 detect broken privacy policy links because we
15 require developers to have a privacy policy. 05:10:51

16 And if it's broken and a user can't find
17 it, then the automated crawler can detect that.
18 And then a human can -- well, no, never mind. I
19 shouldn't -- like the automated crawler can -- can
20 detect that and I believe it can automated enforce. 05:11:04

21 I don't believe it goes to a human. So I may be
22 mistaken there. But I'm pretty sure the automated
23 is complete.

24 But either way the -- the issue -- the
25 issue gets surfaced and addressed and -- oops, I 05:11:18

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1 should stop because I'm forgetting because I 05:11:26
2 rambled. Evening or late -- yeah, evening fatigue.

3 Q. This automatic system, is it fair to
4 describe that as a preemptive measure --

5 MR. BLUME: Objection. 05:11:37

6 Q. (By Mr. Ko) -- or was it more of a
7 reactive measure?

8 MR. BLUME: Objection.

9 THE DEPONENT: I -- I don't know what you
10 mean by "preemptive measure." 05:11:49

11 I mean, the crawler runs. And if the app
12 is live on the platform and not in developer mode,
13 for example, like the crawler can -- it -- I'm not
14 remembering, sitting here today, how often. I
15 think it's each week, but I -- I do not want -- I 05:12:09
16 should stop speculating. But the crawler
17 proactively calls and detects. So it doesn't
18 like -- so I don't know what you mean by pre- --
19 "preemptive."

20 Q. (By Mr. Ko) Other than this crawler, 05:12:23
21 what were the other ways in which Facebook
22 monitored and enforced terms -- its terms with
23 third parties regarding user privacy?

24 [REDACTED]

[REDACTED]

1

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

So it's just meant as a signal. And also
users -- people can report apps through, for
example, any post that a person shares from an app.
There's an ability at each post for a user to
report what they're seeing for multiple reasons.

05:13:39

We also receive reports internally,
externally, for example, from the press, or other
third parties. Like advertisers might point out
something or other developers might observe that
there's violations.

05:13:56

And so through user reports, external and
internal reports, and then proactive developer
operations. Team members manually going in to
review applications for compliance with the terms
and policies.

05:14:15

Age Group	Percentage
5	~10%
6-10	~85%
11-15	~70%
16-20	~80%
21-25	~55%
26-30	~75%
31-35	~65%
36-40	~80%
41-45	~85%
46-50	~80%
51-55	~85%
56-60	~80%
61-65+	~85%

18 Q. Would you agree with me that it was
19 Facebook's job to police and monitor API abuse by
20 third parties on its platform? 05:15:21

25 At times, we -- we introduce the formal 05:15:35

1 app review team. But there was already teams that 05:15:41
2 were proactively reviewing apps for compliance
3 prior to that.

4 So I -- I do agree that Facebook needs
5 to -- and has had like policy enforcement review 05:15:51
6 measures that have been, you know, effective and
7 practical and proportionate to the platform.

8 Q. But did Facebook succeed in its effort to
9 police and monitor API abuse on its platform?

10 MR. BLUME: Objection. Hold on. 05:16:15

11 Calls for a legal conclusion. And
12 outside the scope of the topics.

13 Instruct you not to answer on behalf of
14 the organization.

15 THE DEPONENT: Does that mean I answer in 05:16:35
16 my personal or --

17 MR. BLUME: No.

18 THE DEPONENT: -- do I don't answer at
19 all.

20 MR. BLUME: You don't answer. 05:16:40

21 THE DEPONENT: Okay.

22 Q. (By Mr. Ko) You're going to follow the
23 instructions of your counsel?

24 A. Yes, sir.

25 Q. Would you agree with me that it was 05:16:49

1 difficult, if not impossible, for Facebook to 05:16:51
2 capture all the data abuse and misuse that was
3 happening on its platform?

4 MR. BLUME: Hold on.

5 Objection. Compound. Vague. And calls 05:17:01
6 for a legal conclusion. And beyond the scope of
7 the topics.

8 And instruct you not to answer as a
9 30(b)(6) witness.

10 Q. (By Mr. Ko) Are you going to follow that 05:17:23
11 instruction?

12 A. Yes, sir.

13 Q. Now, would you agree with me -- and, of
14 course, I'm asking as I always have been for these
15 questions -- in your capacity as a 30(b)(6) witness 05:17:38
16 that is here to testify on matters such as
17 monitoring and enforcement as reflected in topic 3,
18 would you agree that it was difficult, if not
19 impossible, for Facebook to monitor, enforce,
20 police, all the API abuse that was happening on its 05:17:55
21 platform?

22 MR. BLUME: Objection. Calls not for
23 facts but opinion of an organization, which is
24 beyond the scope of the 30(b)(6).

25 And, therefore, I instruct you not to 05:18:05

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1 answer. 05:18:08

2 Q. (By Mr. Ko) Are you going to follow that

3 instruction?

4 A. Yes, sir.

5 Q. Are you aware of any facts -- speaking on 05:18:18

6 behalf of the company, are you aware of any facts

7 or circumstances in which it became known that it

8 was impossible for Facebook to police and monitor

9 all the abuse that was happening on its platform?

10 MR. BLUME: Again, to the extent that you 05:18:33

11 are aware of any facts that relate to some

12 assessment of impossible --

13 SPECIAL MASTER GARRIE: Counsel, is there

14 an objection?

15 MR. BLUME: Yeah. I'm about to -- to -- 05:18:44

16 it's a privilege objection. And so I'm defining

17 the scope of the privilege for her, if I may.

18 SPECIAL MASTER GARRIE: Yeah. Sure. I

19 just wasn't sure if there was an objection.

20 MR. BLUME: Yes. 05:18:55

21 So to the extent that you become aware of

22 facts about the impossibility of Facebook

23 monitoring, as a result of conversations with legal

24 counsel, or based on advice from legal counsel, I'd

25 instruct you not to answer. 05:19:09

1 And -- and -- and, as well, I would 05:19:10
2 object that it is sufficiently vague as to be
3 outside the scope of the topics about which you're
4 testifying as a 30(b)(6) witness, which is another
5 instruction not to answer. 05:19:30

6 Q. (By Mr. Blume) Are you going to follow
7 that instruction?

8 A. I'm not sure if I'm supposed to wait for
9 Special Master Garrie because he just turned on his
10 video and he -- 05:19:44

11 SPECIAL MASTER GARRIE: Thank you.

12 THE DEPONENT: -- that means he might
13 talk.

14 SPECIAL MASTER GARRIE: That is true.

15 Counsel -- Counsel Ko, what -- what 05:19:50
16 does -- within the scope of what this witness was
17 designated to, what does that -- your question map
18 to?

19 MR. KO: Topic 3c, Special Master.

20 SPECIAL MASTER GARRIE: Can you read it 05:20:15
21 because I don't have it in front of me.

22 MR. KO: "Facebook's monitoring and
23 enforcement of contractual terms with Third Parties
24 regarding their use of User's Data or Information."

25 We can -- we can screen-share it, too, 05:20:30

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1 for everyone to see. 05:20:31

2 SPECIAL MASTER GARRIE: That -- that

3 would be helpful.

4 MR. BLUME: If I may, Your Honor?

5 SPECIAL MASTER GARRIE: One second. 05:20:43

6 Yeah, Counsel Blume, please explain to me

7 how this is beyond the scope of what she was

8 designated by Facebook to testify to.

9 MR. BLUME: The impossibility of

10 monitoring the -- is a legal conclusion. The 05:21:13

11 concept -- concept of what constitutes abuse on the

12 platform is a legal conclusion.

13 They are also too vague terms for a

14 30(b)(6) witness to opine on. And to the extent

15 that she's aware of those facts that led to those 05:21:31

16 conclusions, they are privileged and, therefore,

17 inappropriate.

18 SPECIAL MASTER GARRIE: And for the

19 privilege, I get.

20 But "Facebook's monitoring and 05:21:41

21 enforcement of contractual terms with Third Parties

22 regarding their use of User Data or Information,

23 including enforcement of Policies regulating

24 access" -- "regulating access to such Data or

25 Information beyond the Use Case." 05:21:58

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1 And you -- Facebook put forward this 05:22:02
2 witness to opine on this topic.
3 MR. BLUME: Not the -- the
4 impossibility -- the -- the conclusion that
5 something was impossible to monitor or that is -- 05:22:11
6 what is -- it's presumably a legal conclusion of
7 impossibility.
8 SPECIAL MASTER GARRIE: But -- no. It's
9 impossibility to reach a --
10 (Simultaneously speaking.) 05:22:21
11 MR. BLUME: It's sufficiently vague and
12 undefined.
13 SPECIAL MASTER GARRIE: Okay. Noted.
14 Impossibility in the function not as a
15 lawyer. But as a function of her duties as an 05:22:27
16 employee of Facebook, whether it was possible or
17 not. Not a legal --
18 MR. BLUME: Right.
19 SPECIAL MASTER GARRIE: -- testifying
20 conclusion, right. 05:22:35
21 It's whether or not it was possible for
22 her to accomplish this.
23 And so please answer -- so overruled,
24 Counsel Blume, subject for the first -- overruled
25 with respect to the scope. However, still with 05:22:45

1 regards to the objection with regards to privilege, 05:22:52
2 for purposes of clarity of Counsel Blume, or any
3 conversations you had with lawyers -- or
4 Counsel Blume, would you like to instruct the
5 witness again with regards to privilege? 05:23:02
6 MR. BLUME: Actually -- actually, if we
7 can just jump off the record, I could figure out
8 what the answer is and whether it's privileged.
9 And then we can go forward.
10 SPECIAL MASTER GARRIE: Okay. We'll go 05:23:11
11 off the record.
12 THE VIDEOGRAPHER: We're off the record.
13 It's 5:26.
14 (Recess taken.)
15 THE VIDEOGRAPHER: Back on the record. 05:27:44
16 It's 5:27 p.m.
17 MR. KO: Okay. I just want to make sure
18 Special Master Garrie is here for this, so I'll
19 wait.
20 Hello. 05:28:01
21 At -- at this point, Your Honor,
22 Special Master, Mr. Blume Ms. Hendrix, I'm -- I'm
23 not going to ask any further questions and I am
24 going to reserve the right to ask questions related
25 to topics 1, topics 2b, 2d, topics 3 and portions 05:28:17

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1 of topic 6, to the appropriate Facebook witness 05:28:24
2 that can answer these questions.

3 And we reserve the right to seek
4 additional time so that Facebook can identify the
5 appropriate witness such that we can have our 05:28:35
6 substantive questions answered.

7 But at this point, I have no further
8 questions for you. Thank you for your time,
9 Ms. Hendrix.

10 MR. BLUME: If I may, 05:28:48
11 Special Master Garrie, respond.

12 SPECIAL MASTER GARRIE: I mean, sure.
13 Suddenly, I think.

14 MR. BLUME: Yeah. Ms. Hendrix is here
15 and prepared, as she has said a number of times, to 05:28:58
16 speak on these topics. There is no other witness
17 that will speak to those topics. If Mr. Ko has
18 questions for Ms. Hendrix on those topics, any one
19 of them that he mentioned, he is obligated to ask
20 those today. 05:29:16

21 There is absolutely no reason whatsoever,
22 no good faith reason whatsoever to request any
23 other witness address those topics. No other
24 witness will be prepared to address any of those
25 topics. That is -- we have fulfilled our 05:29:30

1 obligation by preparing Ms. Hendrix to answer on 05:29:33
2 those topics. And Mr. Ko had more than sufficient
3 time to get through them.

4 We object not only to extending any other
5 deposition to topics for which those witnesses are 05:29:47
6 not prepared. We also object to any extensions of
7 any time based on this deposition.

8 I will note that plaintiffs sent
9 Ms. Hendrix more than 150 documents to prepare for
10 this deposition. They asked -- they presented two, 05:30:05
11 maybe three, of those documents. The fact that
12 they chose not to go through those documents, the
13 other 147 of them, is a choice that they made.

14 The types of questions that Mr. Ko asked
15 are choices he made. And so their failure to get 05:30:22
16 whatever information they thought that they would
17 want to get is a making of their own.

18 If time is an issue, Ms. Hendrix is here.
19 But we will not present another witness on the
20 topics -- 05:30:38

21 (Technical issues.)

22 THE COURT REPORTER: Wait. Wait. You
23 cut out with "another witness on the topics" --

24 MR. BLUME: Will not -- nor will -- nor
25 we will -- nor will we bring Ms. Hendrix back as a 05:30:46

1 30(b)(6) witness on these topics as far as Facebook 05:30:49
2 is concerned --
3 (Technical issues.)
4 THE COURT REPORTER: Hold on. The audio
5 is very bad. I don't know -- 05:30:58
6 MR. BLUME: As far -- as far as -- as far
7 as Facebook -- Facebook is concerned, the topics
8 for which Ms. -- Ms. Hendrix is designated are now
9 closed, with the conclusion of this deposition by
10 Mr. Ko, and we will move on to the other topics. 05:31:05
11 MR. KO: I just want to note for the
12 record, Special Master Garrie and Mr. Blume, that
13 in addition to the reasons I identified earlier
14 about why we reserve to right to ask questions to
15 the appropriate witness on these topics, I just 05:31:22
16 want to make sure that the record is clear that we
17 have spent a substantial amount of time on the
18 record today having basic disputes over the
19 witness's ability to answer or not these questions
20 in response to topics. 05:31:41
21 And just to make clear another ground for
22 which we are seeking to reserve the right to reopen
23 the deposition is Mr. Blume's improper
24 instructions instructing the witness not to answer.
25 MR. BLUME: I -- I would -- I would 05:32:00

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1 I will take under consideration both 05:33:06
2 party's positions. I will likely request further
3 briefing, limited briefing, in an accelerated
4 schedule on the issue.

5 And you're more than welcome to bring 05:33:16
6 this before Judge Chhabria and use the record
7 accordingly and explain it to him accordingly.

8 If you disagree with my ruling or
9 finding, if I do warrant more time or that the
10 witness, or someone else is to be produced to 05:33:29
11 respond.

12 With that noted, I thank the witness and
13 we will be finished for today, unless there are any
14 further questions or requests or rulings of
15 Counsel Blume or Counsel Ko so desire. 05:33:50

16 MR. BLUME: I -- I would only note that
17 if I -- I make the request that if Mr. Ko has
18 additional -- additional questions on the topics
19 for which Ms. Hendrix is designated, he ask them
20 right now. She's here and prepared to continue. 05:34:02

21 MR. KO: I will stand by my original
22 reservation of rights, as noted in the previous
23 six minutes on the record.

24 SPECIAL MASTER GARRIE: And just for the
25 record, to be clear, I have no position one way or 05:34:16

1 the other as to the request for relief beyond 05:34:19
2 denying Counsel Blume's request that I make the
3 ruling here and now.

4 MR. BLUME: Right. And -- and appreciate
5 that. 05:34:29

6 MR. KO: Thank you.

7 MR. BLUME: And -- and -- that's fine.

8 We -- we've made our -- we've made our point.

9 SPECIAL MASTER GARRIE: And so noted. We
10 are done. 05:34:38

11 Just make sure the designation as
12 confidential has been recorded.

13 Are there any standing orders for
14 transcripts for 30(b)(6) depositions? Are we going
15 to use the standing orders for the other witnesses? 05:34:51

16 MR. BLUME: I believe so. I'm the wrong
17 person to ask, but I believe that's the case.

18 MR. KO: I -- I apologize. I forgot one
19 thing in my haste to conclude this.

20 I forgot to make the formal request on 05:35:07
21 the record, Mr. Blume, that you provide
22 Ms. Hendrix' DC AG deposition transcript, in
23 connection with the applicable RFP asking Facebook
24 to produce all such material. That's all --

25 MR. BLUME: Well, the DC A -- the -- 05:35:26

1 we'll take under consideration the DC AG transcript 05:35:26
2 request and that's -- we'll take it under
3 consideration.

4 And, again, I urge you, Mr. Ko, if you
5 have additional questions for Ms. Hendrix, we are 05:35:42
6 not stopping the deposition. She's here and
7 prepared. And if you choose to end it, I'll
8 consider that -- that you have nothing further for
9 her.

10 MR. KO: So the record is clear, I, of 05:35:54
11 course, do have a lot further, but your continued
12 objections and --

13 MR. BLUME: Well, we'll be here.

14 MR. KO: -- instructions not -- let me
15 finish. 05:36:01

16 -- continued objections and instructions
17 not to answer. And the fact that this witness is
18 not prepared to testify as to basic issues on
19 claims and allegations regarding this case, in
20 particular, are the reasons why we would hope to 05:36:15
21 seek an actual witness, or this witness to actually
22 testify as to these topics.

23 MR. BLUME: Well, then I think we should
24 be clear.

25 So the issues that you believe apply to 05:36:26

1 her topics include whitelisting, as it relates to 05:36:28
2 the topics that -- for which she is designated. We
3 also understand that you asked whether or not there
4 were third-party apps who continued to be given
5 permission to access friends data after 05:36:42
6 May of 2015, that she believed was -- that we
7 objected to under -- under topic 2d. That is that
8 that topic.

9 Can you please state for the record any
10 other areas that -- and then privilege, of course, 05:36:59
11 which we objected to.

12 But because Ms. Hendrix is here and
13 available, if you could put on the record exactly
14 what other topics you believe she -- you were
15 prevented from asking her about under the said 05:37:16
16 topics so that we can appropriately address those
17 and deal with them, rather than burden this witness
18 with -- when she's here and available based on your
19 desire to just do it another day.

20 If you could put on the record 05:37:32
21 specifically what it is you believe -- what
22 information you believe you were deprived from her
23 on the topics for which she was designated and
24 that -- and that -- and that were asked about --
25 and that were -- you were asked about -- and -- not 05:37:44

1 topics that you were not -- that you didn't talk 05:37:49
2 about. The questions you asked and the answers of
3 which you believe you were deprived for, in your
4 view, objections unfounded.

5 MR. KO: I think the record is clear as 05:37:58
6 to both your instruction and the witness's
7 inability to ask it -- answer basic questions with
8 respect to topics 2d and 3c, in particular.

9 But I will note for the record that all
10 of these topics, which do relate to monitoring and 05:38:15
11 enforcement and how Facebook enforced its policy
12 with respect to third party use of user information
13 were all the type of questions that Ms. Hendrix had
14 difficulty responding to on behalf of Facebook.

15 MR. BLUME: She -- she's here prepared to 05:38:39
16 talk about the policies with respect to the -- the
17 use -- of use -- the third party use of
18 information. That's exactly what she's here to
19 testify to.

20 I would suggest that if you have any 05:38:48
21 questions you did not ask about any of her topics,
22 you ask them now. We can discuss later or -- or --
23 or debate whether or not my objections were
24 appropriate. But to topics, questions, issues that
25 were -- you did not raise and -- and not give 05:39:04

1 Ms. Hendrix the opportunity to testify to, we are 05:39:09
2 prepared to sit here right now and -- and answer
3 those questions.

4 But we will not consent to simply taking
5 an extra day with her to ask questions or to hit 05:39:18
6 topics that you did not cover today. Because she
7 is very well prepared --

8 MR. KO: You've made that --

9 MR. BLUME: I'm sorry -- she's very
10 prepared to read your things with regard to 05:39:28
11 topics 2d and 2c and -- or 3c, in particular.

12 She is prepared to talk about monitoring
13 and how Facebook enforce -- how Facebook -- this is
14 your quote from the record -- how Facebook enforced
15 its policies with respect to third party use. 05:39:41

16 She is prepared to testify to that, as we
17 said. And so if you have questions on that topic,
18 I -- I request that you ask them now.

19 MR. KO: You have made it perfectly clear
20 that you do not consent to my request and I 05:39:52
21 understand and respect it.

22 MR. BLUME: I just said -- I just said I
23 did. I just said on the record, Mr. Ko, that with
24 regard to topics 2d and 3c, you just said -- you
25 note, for the record, quote, that all of these 05:40:06

1 topics that -- which do relate to monitoring and 05:40:08
2 how Facebook enforces policies with respect to
3 third party use of -- third parties' use -- use of
4 user -- of user information.

5 That's what you just described. And I'm 05:40:19
6 telling you, on the record, with Ms. Hendrix, to my
7 left, prepared to answer all of those questions.

8 So if you have them, I beg you to ask
9 them now. And don't come back and ask them later.
10 We are open and willing to answer those questions, 05:40:34
11 as we have said all along. That is -- that -- the
12 how that you just quoted was exactly the how that I
13 quoted. And we are more than happy to answer
14 questions on that topic.

15 MR. KO: If you had made -- if you 05:40:50
16 allowed me to finish you probably understand my
17 statement in full.

18 I understand, and you have made it
19 perfectly clear, that you do not consent to our
20 request to reopen this deposition. And I get that. 05:41:02
21 And we obviously oppose that.

22 I will also note for the record that one
23 of the reasons why we need another deposition is
24 that you have unfairly and unreasonably limited
25 these topics, as you have noted many times on the 05:41:18

1 record today, that these topics only relate to the 05:41:20
2 policies and procedures that Facebook enacted in
3 connection with this topic.

4 MR. BLUME: You are free -- you -- you
5 are -- 05:41:31

6 MR. KO: That's all I have to say. I
7 am --

8 MR. BLUME: You are required -- you --
9 you are --

10 SPECIAL MASTER GARRIE: One at a time, 05:41:34
11 Counsel.

12 Here's what we're going to do. Here's
13 what we're going to do.

14 You both have been pontificating for some
15 time on the record. We will cease pontification. 05:41:40
16 Here's what we will do.

17 Bear with me.

18 Ms. Hendrix, would you mind stepping out
19 for two minutes so I can speak to the lawyers. We
20 will go off the record. 05:41:54

21 THE VIDEOGRAPHER: Okay. We're off the
22 record. It's 5:42 p.m.

23 (Recess taken.)

24 THE VIDEOGRAPHER: Okay. We're back on
25 the record at 6:03 -- 06:03:21

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1 SPECIAL MASTER GARRIE: All right. Let's 06:03:22
2 go back on the record.

3 THE VIDEOGRAPHER: -- 6:03 p.m.

4 MR. KO: Mr. Blume, your -- your begging
5 was persuasive. I'll try and -- and ask some more 06:03:37
6 questions.

7 But I will note for the record that, of
8 course, the position that we have taken prior to
9 this most recent break is that there are a number
10 and myriad of examples in which this witness 06:03:54
11 indicated she was not testi- -- prepared to testify
12 as to certain aspects of these topics and that you
13 have given improper instructions not to answer.

14 So for those reasons, we reserve the
15 right to reopen the deposition. But as long as 06:04:10
16 we're all here, I do want to ask some more
17 follow-up questions with respect to these topics,
18 if Ms. Hendrix is still available.

19 MR. BLUME: Okay. Go ahead.

20 Q. (By Mr. Ko) Ms. Hendrix, take -- take a 06:04:31
21 look at the notice again.

22 A. I'm here.

23 Q. Okay. Can you look at topic 3.

24 A. Yes.

25 Q. And can you identify for me all the 06:04:47

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1 instances in which Facebook was able to identify 06:04:49
2 whether or not a third party was using Facebook
3 users' data or information beyond the use case?

4 MR. BLUME: Hang on one second, please.

5 Yeah, which -- which -- the actual uses 06:05:32
6 of -- use of data beyond the use case is covered by
7 which subsection of topic 3?

8 MR. KO: 3c.

9 MR. BLUME: "Monitoring and enforcement
10 of contractual terms, including enforcement of 06:05:48
11 Policies regulating access," that one?

12 MR. KO: That would be --

13 MR. BLUME: Is that -- is that --

14 MR. KO: -- what I said when I said 3c.

15 MR. BLUME: Okay. I mean, to the extent 06:06:06
16 you can answer the question with regard to an
17 overview of the processes regarding the monitoring
18 and enforcement, you can. If not...

19 THE DEPONENT: And the question again is
20 what? 06:06:23

21 Q. (By Mr. Ko) Can you identify for me all
22 the instances in which Facebook was able to
23 identify whether or not a third party was using
24 Facebook's users' data information beyond the use
25 case? 06:06:33

1 MR. BLUME: And, again, this talks to 06:06:33

2 processes, Mr. Ko. It's just --

3 SPECIAL MASTER GARRIE: Counsel --

4 Counsel, are you objecting?

5 MR. BLUME: I'm -- I'm objecting it's 06:06:40

6 beyond the scope. If -- if you're prepared to --

7 if you've been prepared to talk to the identity of

8 specific instances as opposed to the overview of

9 the processes, which is what topic 3 asks for, you

10 may. But if you're not prepared, you're not 06:06:54

11 prepared.

12 THE DEPONENT: Well, during the relevant

13 period from 2007 to 2022, I don't believe we have

14 that logging. But I can definitely speak to the

15 processes of developing the settings or other 06:07:17

16 controls made available to users to prevent or

17 limit their data or information from being accessed

18 by third parties, including how Facebook monitors

19 and enforces a contractual terms with those third

20 parties. 06:07:33

21 But the specific amounts, I don't even

22 think we, as a company, could produce that if we

23 wanted to. And I -- so I don't come prepared with

24 the knowledge of that --

25 Q. (By Mr. Ko) Can you identify -- 06:07:53

1 A. -- which is outside the scope of what I'm 06:07:54
2 reading here.

3 Q. Can you identify all the factual
4 instances or circumstances for when Facebook did,
5 in fact, detect abuse on its platform? 06:08:04

6 MR. BLUME: And I'd instruct you -- to
7 the extent that you've learned of "abuse" on the
8 platform through conversations with counsel, I'd
9 instruct you not to answer.

10 And I'd obviously review the topic and 06:08:16
11 the question and determine whether it's in --
12 within the scope of topic 3, as far as you are
13 concerned in your prep.

14 THE DEPONENT: I am not prepared to
15 answer all of the -- nor do I think Facebook can 06:08:31
16 answer all of the amount or violations of policies
17 that we've surfaced -- surfaced in apps from 2007
18 to 2022.

19 Q. (By Mr. Ko) Can you describe to the
20 Court whether or not you're aware of the factual 06:08:51
21 circumstances in which Facebook determined that an
22 app was not complying with its policies?

23 MR. BLUME: Objection. How they
24 determined whether they were complying or whether
25 they are complying? 06:09:19

1 MR. KO: I'm -- I'm -- I'm trying to ask 06:09:20
2 questions related to this topic and you continue to
3 object during -- for scope and privilege. And
4 continue to instruct the witness not to answer.

5 I thought that your begging would allow 06:09:28
6 me to actually ask questions that you would not
7 object to.

8 MR. BLUME: If -- relevant to the
9 topic -- Mr. Garrie, I'd ask that we -- we walk
10 through topic 3 with your instructions, sir, and 06:09:37
11 put it in -- in -- and identify how -- where it
12 talks about factual instances or circumstances of
13 abuse, where topic 3 speaks to the number of
14 instances of abuse.

15 And Mr. Garrie, if you -- if you'd show 06:09:57
16 us that -- where it is, then we'll be advised. But
17 there's nothing I see -- I don't even see the word
18 "facts" or "instances" at all in topic 3.

19 And so I'm hard-pressed to -- to hear
20 Mr. Ko repeatedly make this witness feel as though 06:10:13
21 she's inadequately prepared when, on the face of
22 topic 3, the words that he's using in his questions
23 don't even appear.

24 MR. KO: Pretty simple. Well, if I -- if
25 I can respond, I will, Special Master Garrie. 06:10:30

1 SPECIAL MASTER GARRIE: Can you share 06:10:33
2 your screen and then a response to the point raised
3 by Counsel Blume. But share your screen
4 for topic 3. So we all are reading it together.
5 Okay. Your response first, Counsel Ko, 06:10:44
6 and then I will go through it.
7 MR. KO: As -- as we discussed earlier,
8 it's a bit divorced from reality if a witness
9 cannot testify as to the facts that apply with
10 respect to how Facebook monitored and enforced its 06:10:59
11 contractual terms of third parties.
12 Similarly, it's a bit divorced
13 from reality if Facebook is trying to suggest that
14 they cannot provide a witness that will testify as
15 to the facts that apply to how -- and this is in 06:11:12
16 connection with 2d -- how Facebook ensured third
17 parties' use of such data or information was
18 limited to the use case.
19 And so this, once again, goes back to the
20 point earlier where we were discussing where all of 06:11:25
21 these things, as Ms. Hendrix has testified before,
22 were fairly iterative and things evolved as the
23 factual circumstances changed.
24 And so the idea that she cannot sit here
25 and testify as to the facts that actually underlie 06:11:41

1 Facebook's monitoring and enforcement of 06:11:45
2 contractual terms is a bit unreasonable, from my
3 perspective, and does not comport with the actual
4 testimony that we would hope to elicit from this
5 witness on these topics. 06:12:00

6 MR. BLUME: As Mr. Ko just described it,
7 she's prepared to do that, facts that apply with
8 respect to how -- this is his quote from what he
9 just said. She -- and she is prepared to testify
10 as to the facts that apply with respect to how 06:12:13
11 Facebook monitored and enforced its contractual
12 terms. She will testify to that.

13 She will also testify to the facts that
14 apply, quote, as to how and -- how -- and this is
15 in connection with 2d, he says -- how Facebook 06:12:25
16 ensured third parties' use of such data. She's
17 completely prepared to testify to that.

18 But if you -- Mr. Ko -- if you refer to
19 his question, that's not what he's asking. He
20 is -- he is making -- he's responding to my 06:12:39
21 objection by stating exactly what she's prepared to
22 testify to. But then the questions he asks don't
23 ask those questions.

24 MR. KO: Logical corollary to the facts
25 related -- 06:12:56

1 SPECIAL MASTER GARRIE: One second. One 06:12:56
2 second.

3 You're both are repeating your arguments.
4 Just -- just because I'm -- again, just -- so the
5 question is, can you describe to the Court whether 06:13:02
6 or not you are aware of the factual circumstances
7 in which Facebook determined that an app was not
8 complying with its policies.

9 MR. BLUME: That -- with all due respect,
10 that wasn't the question he asked. 06:13:16

11 THE DEPONENT: His question is --

12 SPECIAL MASTER GARRIE: No, no. Well,
13 I'm -- that's the question I -- okay. So that's
14 one question that was asked and you objected, how
15 they determined whether they were complying or 06:13:24
16 whether they are complying.

17 And Counsel Ko responded, well -- and
18 then you responded. And I don't think an answer
19 was ever provided by the witness. And then there
20 was another question asked, so... 06:13:40

21 MR. BLUME: Right. The question was --
22 the outstanding question is, are you -- whether or
23 not you are aware, quote, of the factual
24 circumstances in which Facebook determined that an
25 app -- specific app was not complying with its 06:13:51

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1 policies. 06:13:54

2 But then when he describes it in his
3 argument to you, what he really wants to know is,
4 quote, how and -- how -- how Facebook monitored and
5 enforced its contractual terms. 06:14:07

6 If he just asked that question that he
7 stated in his objection, Ms. Hendrix will answer
8 that, how Facebook monitored and enforced. She'll
9 also answer the next question he posits in his
10 response to my objection, which is how Facebook 06:14:19
11 ensured third parties use such data. She's
12 prepared to answer that.

13 And that speaks -- that is topic 3.
14 We're prepared. All he has to do is ask those
15 questions and we'll move this along. But he wants 06:14:31
16 specific instances of misconduct, which is not
17 topic 3.

18 MR. KO: I don't understand how you could
19 talk about monitoring without specific instances of
20 misconduct, but... 06:14:47

21 SPECIAL MASTER GARRIE: If you're wanting
22 to know, based on her -- his -- his argument,
23 Counsel Blume, is based on her work experiences,
24 how did that shape what -- the things she's here to
25 testify about. It's -- that's what I understand 06:15:01

1 what Counsel Ko pointed. Are there any -- 06:15:04

2 MR. BLUME: Yeah, that's not the topic,
3 though.

4 SPECIAL MASTER GARRIE: I'm -- I'm just
5 communicating -- 06:15:10

6 MR. BLUME: I -- I hear it. Yeah, I get
7 it.

8 SPECIAL MASTER GARRIE: All right. Well,
9 before I rule on it, let's go through it.

10 "An overview of the processes of 06:15:25
11 developing Privacy or App Settings or other
12 controls made available to Users to prevent or
13 limit their Data or Information from being accessed
14 by Third Parties, including the dates during which
15 each such Privacy or App Setting or other control 06:15:39
16 were available."

17 MR. BLUME: Right.

18 SPECIAL MASTER GARRIE: So --

19 MR. BLUME: Pro- -- overview of processes
20 and dates. 06:15:48

21 SPECIAL MASTER GARRIE: And specific --
22 dates. Then the data and information, which is
23 defined terms, covered by -- so then they want the
24 data and information -- if you read the definition
25 of information -- can you go up -- 06:16:00

2 MR. BLUME: Yeah, that's not the topic,
3 though.

4 SPECIAL MASTER GARRIE: I'm -- I'm just
5 communicating --

7 it.

8 SPECIAL MASTER GARRIE: All right. Well,

9 before I rule on it, let's go through it.

10	"An overview of the processes of	06:15:25
11	developing Privacy or App Settings or other	
12	controls made available to Users to prevent or	
13	limit their Data or Information from being accessed	
14	by Third Parties, including the dates during which	
15	each such Privacy or App Setting or other control	06:15:39
16	were available."	

17 MR. BLUME: Right.

18 SPECIAL MASTER GARRIE: So --

19 MR. BLUME: Pro- -- overview of processes
20 and dates.

21 SPECIAL MASTER GARRIE: And specific --
22 dates. Then the data and information, which is
23 defined terms, covered by -- so then they want the
24 data and information -- if you read the definition
25 of information -- can you go up --

1 MR. KO: Sure. 06:16:04

2 SPECIAL MASTER GARRIE: -- to the

3 definition, Counsel Ko, because I think this is

4 where we're running into a little -- so

5 information, as I understood it and maybe my -- 06:16:08

6 it's getting late so maybe I --

7 MR. BLUME: It's page 4. Page 4.

8 SPECIAL MASTER GARRIE: Yeah. "'Data' or

9 'Information' refers to Personal Information,

10 Content and Information, and Data collected and 06:16:26

11 delivered about Users" -- users --

12 MR. BLUME: Correct. Right.

13 SPECIAL MASTER GARRIE: -- including --

14 wait -- "including information ordered relevant in

15 the Court's October 29, 2020" -- this is discovery 06:16:35

16 order No. 9, which is on platform, off platform or

17 third party. It is extremely broad --

18 MR. BLUME: Yes.

19 SPECIAL MASTER GARRIE: -- "which defines

20 the discoverable User Data at issue in this case to 06:16:48

21 include "Data collected from a user's on-platform

22 activity; Data obtained from third parties

23 regarding a user's off-platform activities; and

24 Data inferred from a user's on or off-platform

25 activity." 06:17:00

1 So that's how we're defining information. 06:17:00
2 So going back down to where we're at --
3 MR. BLUME: Yup. What -- what of that is
4 covered by each setting or control is the
5 question -- is the topic, right. What of that 06:17:11
6 broad swath of data the topic is for Ms. Hendrix to
7 says, well, that broad swath of data, what of it is
8 covered by each setting or control.
9 SPECIAL MASTER GARRIE: Well, you asked
10 me to walk through it. So you're saying to prevent 06:17:22
11 or limit the data or information. Data or
12 information is on or off platform activity with
13 third parties. It's specific technical defined
14 information. That is how --
15 MR. BLUME: I agree. 06:17:36
16 SPECIAL MASTER GARRIE: -- it's defined
17 in the Court order with Judge Corley, who had
18 spoken at length about it.
19 MR. BLUME: Yeah. But it's the
20 processes -- it's the first sentence. It's the 06:17:43
21 "processes of developing Privacy -- "made available
22 to prevent or limit" -- the processes --
23 SPECIAL MASTER GARRIE: No, no. Privacy
24 or other controls.
25 MR. BLUME: Yeah. Right. But that's not 06:17:53

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1 an instance. Those are the controls in place. 06:17:55
2 What is the --
3 SPECIAL MASTER GARRIE: I get it. You
4 just asked me -- "made available to Users to
5 prevent or limit their Data" -- 06:18:00
6 MR. BLUME: Right.
7 SPECIAL MASTER GARRIE: -- "or
8 Information from being accessed" -- "including the
9 dates during which of these" -- okay.
10 MR. BLUME: Right. 06:18:09
11 SPECIAL MASTER GARRIE: I'm -- I'm just
12 walking through it -- covered, blah, blah, blah --
13 "and the Default setting for each."
14 So you -- there's not --
15 MR. BLUME: Right. 06:18:14
16 THE DEPONENT: Your point is, the scope
17 here from where --
18 MR. BLUME: 3b.
19 SPECIAL MASTER GARRIE: -- you read it --
20 in 3, as you read it -- 06:18:17
21 MR. BLUME: Privacy, app settings and
22 controls.
23 SPECIAL MASTER GARRIE: All right.
24 MR. BLUME: That's what it is.
25 SPECIAL MASTER GARRIE: And -- 06:18:25

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1 MR. BLUME: That's the scope. 06:18:25

2 SPECIAL MASTER GARRIE: For data or

3 information.

4 MR. BLUME: Right. Privacy for app

5 settings or other controls. That's what this topic 06:18:32

6 focuses on.

7 SPECIAL MASTER GARRIE: So what -- the

8 part where I struggle, Counsel Blume, is accessed

9 by third parties, right. So their -- and your

10 point -- your -- your argument is, that doesn't 06:18:44

11 cover the specific factual background that

12 generated --

13 MR. BLUME: The -- well -- right. The

14 topic is -- focuses on privacy or app settings or

15 other controls that govern all of this stuff. 06:18:54

16 That's what this focuses on.

17 They could have written a topic that said

18 identify all instances in which a third party

19 improperly accessed data. That's not what this

20 says. I don't deny them they want that 06:19:08

21 information. But this specific topic talks about

22 privacy and app setting and controls --

23 SPECIAL MASTER GARRIE: And then 3b --

24 MR. BLUME: -- that cover all of this

25 stuff. 06:19:16

1 SPECIAL MASTER GARRIE: Then 3b, is she 06:19:16
2 here for 3b or no?
3 MR. BLUME: Yes.
4 MR. KO: Yes, she is. She's here for all
5 topics. 06:19:22
6 SPECIAL MASTER GARRIE: So this is where
7 I'm confused. This is -- so --
8 MR. BLUME: Privacy and app settings --
9 SPECIAL MASTER GARRIE: Wait. Wait.
10 Wait. 06:19:24
11 MR. BLUME: -- and controls about
12 processes, reviews and --
13 SPECIAL MASTER GARRIE: But it says
14 "investigations" --
15 MR. BLUME: Yeah, but -- 06:19:26
16 SPECIAL MASTER GARRIE: -- "inquiries,
17 studies" -- just wait a sec.
18 MR. BLUME: It's --
19 THE COURT REPORTER: We're talking on top
20 of each other. 06:19:26
21 MR. BLUME: Sorry. It's -- it's the
22 including colon section leading to section b.
23 SPECIAL MASTER GARRIE: Yeah. So
24 including any process -- processes, check.
25 Reviews, check. Investigations or particular 06:19:44

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1 instances that would drive a particular -- you 06:19:47
2 investigate a particular activity. You asked me to
3 explain it, I'm explaining --

4 MR. BLUME: It's the privacy or app --
5 it's the privacy, app settings or controls that -- 06:19:55
6 that -- that monitor investigations, not the facts
7 of the investigations --

8 SPECIAL MASTER GARRIE: So you're reading
9 it the other way.

10 MR. BLUME: -- not what goes into it. 06:20:04
11 It's privacy and apps settings and controls that
12 focus on other processes, reviews, investigations,
13 inquiries, studies, analyses.

14 It's not tell us about the investigations
15 or the queries and the studies. It's tell us about 06:20:13
16 the -- the privacy or app setting or other
17 controls.

18 It's how they drafted it. I mean, it's
19 their own words. I -- I don't know how it can be
20 viewed in some way that -- that -- that requires us 06:20:22
21 to infer from the very words on the page that it
22 means something other than the plain language.

23 SPECIAL MASTER GARRIE: And what about
24 3c?

25 MR. BLUME: Same way. Privacy or app 06:20:35

1 settings and other controls, including those about 06:20:36
2 Facebook's monitoring and enforcement of
3 contractual of with third parties.

4 The -- the premise of all subsections a,
5 b and c is to discuss an overview of the processes 06:20:44
6 of developing privacy or app settings or other
7 controls.

8 SPECIAL MASTER GARRIE: But how does
9 monitoring --

10 MR. BLUME: That's your topic 3b. 06:20:54

11 SPECIAL MASTER GARRIE: So then explain
12 to me what your reasoning -- how does monitoring
13 and enforcement relate to what you're talking
14 about.

15 MR. BLUME: What -- what's -- what 06:21:00
16 privacy or app settings are in place that help
17 Facebook monitor and enforce contractual terms of
18 third parties. What controls are in place to help
19 Facebook monitor and enforce the contractual terms
20 of third parties. Not when has third parties 06:21:12
21 violated, but what does Facebook do to monitor
22 that.

23 SPECIAL MASTER GARRIE: Just answer my
24 question. You can keep the other part of the
25 answer. Just focus on my questions, rather than 06:21:21

1 the -- the other part. 06:21:25

2 MR. BLUME: Yes. And I'm sorry. I

3 thought I answered. But that's how -- topic c. If

4 you -- if every -- sub-topics a, b and c are

5 included -- 06:21:35

6 SPECIAL MASTER GARRIE: I get it. Yeah.

7 MR. BLUME: -- in this topic.

8 THE DEPONENT: Honestly --

9 MR. BLUME: So what are the privacy --

10 right. 06:21:39

11 THE DEPONENT: Counsel --

12 MR. BLUME: -- app settings or controls

13 for monitoring --

14 SPECIAL MASTER GARRIE: Counsel Blume.

15 Counsel Blume, I hear you. You've got to just take 06:21:42

16 a --

17 MR. BLUME: Okay.

18 SPECIAL MASTER GARRIE: -- take a

19 second -- take a breath. I'm just going through

20 them. Okay. 06:21:48

21 MR. BLUME: Okay.

22 SPECIAL MASTER GARRIE: I'm trying to

23 understand your position and perspective, and then

24 we can have further conversation.

25 MR. BLUME: Right. Yes. 06:21:54

1 SPECIAL MASTER GARRIE: So you prepared 06:21:56
2 the witness to -- like from where I -- so from
3 your -- from Facebook's perspective, the witness is
4 prepared to testify as to the processes of
5 developing privacy or app settings or other, blah, 06:22:08
6 blah, blah, and the date. So that's what --
7 controls available, not -- and your position is
8 having the witness as a representative of the
9 company speak to what drove the particular
10 instances to drive those processes and actions 06:22:27
11 she -- that witness isn't prepared to testify to
12 that.

13 MR. BLUME: Yeah. It -- there's nothing
14 in here that speaks to --

15 SPECIAL MASTER GARRIE: I'm not -- wait. 06:22:36
16 Wait.

17 (Simultaneously speaking.)

18 MR. BLUME: -- facts.

19 SPECIAL MASTER GARRIE: Answer my
20 question. 06:22:37

21 MR. BLUME: So -- yes.

22 SPECIAL MASTER GARRIE: I'm not asking --
23 I'm not asking what --

24 MR. BLUME: Yes. She is prepared to
25 answer here. 06:22:40

1 SPECIAL MASTER GARRIE: I just want to -- 06:22:40
2 (Simultaneously speaking.)
3 MR. BLUME: You're absolutely right. She
4 is prepared to --
5 THE COURT REPORTER: Please -- please -- 06:22:40
6 MR. BLUME: That's exactly what she's
7 prepared to answer -- to testify to, exactly how
8 you just described it, the processes -- privacy and
9 app settings and controls.
10 SPECIAL MASTER GARRIE: I got it. 06:22:50
11 Counsel Blume, I got it. Answer my questions and
12 not a bunch of other questions. It will be much
13 quicker --
14 MR. BLUME: Gotcha.
15 SPECIAL MASTER GARRIE: -- for us to get 06:22:57
16 this done.
17 MR. BLUME: Under- -- understood.
18 And -- and just -- if I may, Mr. Garrie,
19 its -- it's in fairness to Ms. Hendrix, right.
20 SPECIAL MASTER GARRIE: I understand, 06:23:17
21 Counsel. I --
22 MR. BLUME: She -- she has to -- right.
23 SPECIAL MASTER GARRIE: Counsel Blume, I
24 have been a 30(b)(6) witness.
25 MR. BLUME: Right. 06:23:21

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1 THE DEPONENT: I understand the concept, 06:23:22
2 the construct. I understand the case law. Don't
3 interpret my silence as an invitation to --
4 MR. BLUME: No, I -- I understand.
5 SPECIAL MASTER GARRIE: I'm just 06:23:28
6 scrolling --
7 MR. BLUME: You're scrolling text.
8 SPECIAL MASTER GARRIE: -- to read what
9 the question was.
10 MR. BLUME: Understood. 06:23:31
11 SPECIAL MASTER GARRIE: Okay. And your
12 instruction -- the long instruction --
13 Counsel Blume, the long and short of your
14 instruction was to instruct the witness not to
15 answer -- 06:24:16
16 MR. BLUME: Right.
17 SPECIAL MASTER GARRIE: -- based on it's
18 beyond the scope.
19 MR. BLUME: Yes, to the question,
20 identify all factual instances or circumstances 06:24:23
21 under Facebook --
22 SPECIAL MASTER GARRIE: Nah, nah --
23 MR. BLUME: -- did, in fact, detect --
24 that's the question -- and did, in fact, detect.
25 And we -- I object -- I objected that it is beyond 06:24:30

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1 the scope of topic 3 simply -- 06:24:33

2 SPECIAL MASTER GARRIE: Okay.

3 MR. BLUME: -- simply enough.

4 SPECIAL MASTER GARRIE: Thank you. All

5 right, Counsel Ko. You can stop sharing. 06:24:37

6 Counsel Ko, any -- any point or question

7 before --

8 MR. KO: Sure. Two quick things.

9 One, again, I just come back to the

10 simple and practical point that I'm not sure how 06:24:58

11 one could suggest that the factual circumstances

12 behind monitoring or enforcement are not related to

13 this topic.

14 And two, with respect to 2d, in

15 particular, which we've talked about quite often, 06:25:12

16 and which Mr. Blume likes to both either ignore or

17 inject policies and procedures into, there is no

18 aspect of section 2d which requires Facebook to

19 produce a witness about how Facebook ensured third

20 parties' use of data and information was limited to 06:25:31

21 the use case.

22 I'm -- I'm not quite sure how I can

23 elicit any testimony whatsoever if I'm not allowed

24 to ask questions about the factual circumstances

25 behind how Facebook ensured that. 06:25:42

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1 MR. BLUME: Again -- 06:25:46

2 THE DEPONENT: Ask that question.

3 MR. BLUME: -- he can ask that question.

4 THE DEPONENT: Yeah.

5 MR. BLUME: Ask the question, how did 06:25:48

6 Facebook ensure that. Ask that question. She'll

7 sit here and answer that as long as we -- we want.

8 Ask that question. The very question that is

9 listed in the topic, ask that.

10 SPECIAL MASTER GARRIE: So there's a 06:26:07

11 question pending.

12 Are you going to take the advice of your

13 counsel, Ms. Hendrix, before we --

14 THE DEPONENT: Yeah. I -- I don't

15 remember the -- I -- yes, I'm going to take the 06:26:19

16 advice of -- of counsel.

17 SPECIAL MASTER GARRIE: Okay. Good.

18 Mr. -- Counsel Ko, would you like to ask

19 another question? I'm not -- I'm -- I'm -- the

20 parties -- I will probably -- as -- as both 06:26:31

21 parties' rights are -- can bring a motion before

22 the Special Master seeking an additional topic or

23 clarification for the 30(b)(6), accordingly for

24 said witness to be provided to speak to that.

25 However, I do -- so I remind both parties of that 06:26:49

1 opportunity. 06:26:57

2 With that said, Mr. -- Counsel Ko, do you
3 have another question?

4 MR. KO: I do. Thank you,
5 Special Master. 06:27:05

6 And -- and I'll note that -- just my
7 position on the record, I'll note why the --
8 overall that this deposition has been so unhelpful,
9 because we just spent 17 minutes listening to
10 Mr. Blume discuss with you what this notice means 06:27:18
11 on the record. And so I just repeated my --

12 SPECIAL MASTER GARRIE: Counsel Ko, I
13 wouldn't worry so much about getting additional
14 time or not getting additional time at this point.
15 I'm inclined if such a request is made -- maybe not 06:27:32
16 with this witness, but if -- I wouldn't focus on
17 the time at this point. I would just ask the
18 additional questions you may have.

19 MR. KO: Thank you. I appreciate that.

20 Q. (By Mr. Ko) With respect to data, misuse 06:27:50
21 on the Facebook platform, can you describe the
22 factual circumstances in which Facebook utilized
23 certain policies and procedures to, in fact,
24 enforce and monitor data misuse on the Facebook
25 platform? 06:28:14

1 A. Yes. So first, we develop the policies 06:28:18
2 that developers agree to and must comply with. We
3 train -- for example, we -- we train the teams
4 accountable for policing the platform, which is
5 primarily the developer operations team. So we 06:28:35
6 train them on those policies and create specific
7 guidance and instructions for how they can review
8 apps for compliance with the terms and policies, to
9 the extent we agree that those additional criteria
10 guidelines for reviewing for compliance might be 06:29:00
11 helpful to our teams that are actually doing the
12 review.

13 And then we train all of the different
14 teams. So for example, the app review team, the
15 enforcement team, the investigations team, all of 06:29:17
16 the vendor -- vendors that work on reviewing apps
17 for compliance. So we will train everyone on those
18 terms.

19	We also train our sales and partnerships	
20	and other teams, including our own teams, as we	06:29:32
21	grow and build new people, so that broad wide group	
22	of the company can understand what these terms are.	
23	So that they can help us police the platform by	
24	servicing and identifying those potential	
25	violations of our terms. And we educate them on	06:29:54

1 how they can report those violations to the 06:29:55
2 appropriate teams.

3 We teach them how they can ask questions
4 about the policies, to the extent that they have
5 them. We train the external developer community 06:30:03
6 and at times even nondevelopers on our terms where
7 applicable.

8 We do monitoring which has evolved over
9 time, different types of monitoring. But we use
10 both automated and manual means to detect potential 06:30:27
11 violations to, again, like including like the
12 reporting channels that I -- referred to earlier.

13 [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

21 We, present day, asked developers
22 proactively to do -- we -- we put the data use --
23 data use checkup tool in front of developers, which
24 shows them the permissions that they have. They
25 already know that they have them and they're 06:31:33

1 available in their app dashboard and other 06:31:35
2 settings, but we put in front of them those
3 permissions and ask them to yearly review that and
4 then assess whether they still need those
5 provisions. 06:31:48

6 We have automated tools in place that
7 will prevent a developer from accessing a user's
8 information through the platform if they haven't
9 used the application within 90 days.

10 We -- we also put certain developers 06:32:00
11 in -- with access to certain information or to
12 higher amounts of installs through what we refer to
13 as the data protection assessment that asks them
14 questions about their data use practices, primarily
15 focused on sections 3 through 6 of the platform 06:32:23
16 terms.

17 We require apps to go through app review
18 for nearly all use of the platform. If they want
19 to request a new permission, then so that would
20 trigger a thorough review of the app at the app 06:32:40
21 review stage. Each time they want to decide that
22 they are building their app in a way that requires
23 the need to request permissions which require
24 review, all of which do, for Facebook login.

25 If they are asking for more than name, 06:32:59

1 profile, picture and email, even those apps that 06:33:01
2 don't require upfront app review are reviewed every
3 year during the app re-review process, where the
4 teams are asking -- are presented with a number of
5 questions designed to surface potential violations 06:33:16

6 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14 We have a data bounty program where we
15 pay external reporting parties when they report to 06:33:49
16 us. So we incentivize the reporting of potential
17 violations as an additional monitoring and
18 enforcement tac- -- tactic.

19 We have -- there's a third party, IDAC,
20 which serves to independently be reviewing apps for 06:34:10
21 potential compliance with not just our platforms,
22 but others. And we -- we were the leader in
23 getting that to -- to come into place. And so we
24 engage and ask for help through the entire
25 community, again, by educating all of these 06:34:29

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1 individuals on the terms. 06:34:32

2 Going back to the data point program,

3 we -- that is not just specific to platform term

4 data collection through permissible means. It also

5 includes data that is accessed through unauthorized 06:34:47

6 means by scraping us. So that is another part of

7 the bounty that will pay out where the criteria is

8 met. For example, if we already are aware of an

9 investigation because it's been reported either

10 internally -- surfaced internally or reported by 06:35:04

11 another person externally, then we will thank the

12 reporting party.

13 We -- I feel like I've been incredibly

14 comprehensive, but please let me know if you have

15 any further questions on that point. 06:35:19

16 MR. KO: It sounds like you got your

17 second wind.

18 Rebecca, that was amazing. Good job.

19 THE DEPONENT: I'm -- I'm not Rebecca,

20 but thank you. 06:35:30

21 MR. KO: Right. I was talking to

22 Rebecca, transcribing all of that.

23 THE DEPONENT: Oh.

24 Q. (By Mr. Ko) So with respect -- with --

25 with respect to -- 06:35:39

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1 MR. BLUME: But -- but good job to you, 06:35:39
2 too.

3 THE DEPONENT: Oh, thanks.

4 MR. KO: Right. No, I -- sorry. I --
5 I -- I implied that as well. 06:35:45

6 THE DEPONENT: I can't see her
7 transcribing, so I -- I didn't know what you were
8 referring to. I can't see whatever it is that
9 you're referring to. So I'm sorry. But I thought
10 you were directing your comment to me. 06:35:53

11 Q. (By Mr. Ko) In all the examples that you
12 gave in response to my question, can you identify
13 all the instances in which Facebook actually
14 applied those policies and procedures that you
15 described to a particular app? 06:36:10

16 MR. BLUME: Objection. We're back to
17 topic 3. If you can point to which of the topics
18 and sub-topics talk about particular instances of
19 application of the policies.

20 MR. KO: So I'm now looking at topic 2d, 06:36:35
21 in particular --

22 MR. BLUME: Okay.

23 MR. KO: -- addition to 3c. But -- so
24 I -- I don't know if I have to respond to that,
25 but I think -- 06:36:42

1 (Simultaneously speaking.) 06:36:43

2 MR. BLUME: Well, she's here.

3 MR. KO: So let me -- I'm just going to

4 ask the question again so the record is clear.

5 Q. (By Mr. Ko) Can you identify all the 06:36:48

6 instances in which Facebook actually applied those

7 policies and procedures that you described to a

8 particular app?

9 MR. BLUME: How -- how they -- well --

10 MR. KO: And you object? 06:37:00

11 MR. BLUME: Yeah, to the extent it's 2d

12 my objection is, she -- I mean, it's clear why you

13 didn't want to ask the question. She just

14 described how they ensure it.

15 I'm not sure how this particular 06:37:09

16 instances fits under 2d. So if you can educate me,

17 I'll perhaps permit it. But as I read it in the

18 plain language of the -- 2d, I think it's not --

19 what specific instances is not covered.

20 MR. KO: I -- I don't think I have a duty 06:37:28

21 here to try and educate you. You can object --

22 MR. BLUME: Well, it's your topic. If

23 you want an answer, you do, because it's your

24 topic. So you can -- if -- you wrote it. So if

25 you want answer -- 06:37:38

1 MR. KO: Stop repeating it -- can you 06:37:40
2 stop --
3 MR. BLUME: -- I would request that you
4 educate me on it.
5 MR. KO: This is why this has been a 06:37:44
6 completely unhelpful day, the continual --
7 MR. BLUME: That's --
8 SPECIAL MASTER GARRIE: Counsel Ko --
9 MR. BLUME: That's -- that's not why --
10 SPECIAL MASTER GARRIE: Counsel Blume, 06:37:51
11 stop talking.
12 MR. BLUME: That is not why.
13 SPECIAL MASTER GARRIE: Stop. Put
14 yourselves on mute.
15 Can you please bring up 2d, Counsel Ko. 06:37:58
16 I will rule. Let's see.
17 Court Reporter, I'm looking for the
18 question. Can you read it back.
19 (Record read as follows:
20 "QUESTION: Can you identify all the 06:39:02
21 instances in which Facebook actually
22 applied those policies and procedures
23 that you described to a particular
24 app?")
25 SPECIAL MASTER GARRIE: Counsel Ko, are 06:39:39

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1 you -- when I read 2d, it says "limited to the Use 06:39:40
2 Case."

3 Can you clarify when you say "particular
4 app," what do you mean?

5 MR. KO: So a particular -- well, I -- I 06:39:47
6 wanted to start broad and I would hone in, which
7 I'm entitled to do. But I am talking about, first,
8 if she has any understanding with respect to when
9 or the number of times -- generally, specifically,
10 either one -- of when she was aware of the actual 06:40:05
11 times in which Facebook applied all the examples
12 she gave of the various policies and procedures
13 that Facebook enacted to a particular app that may
14 have either been using information beyond the use
15 case or in any improper way. 06:40:28

16 SPECIAL MASTER GARRIE: And what was your
17 issue with -- how is this beyond the scope,
18 Counsel Blume?

19 I'm trying to read your answer, but it
20 was very long. 06:41:13

21 MR. BLUME: It -- because it asks how,
22 not when, not what, not which. All words they knew
23 and could have written in this topic, but they
24 didn't. They chose how. And now if he's trying to
25 expand it to include when, which, what. I mean, 06:41:28

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1 that's -- 06:41:31

2 SPECIAL MASTER GARRIE: So is it your

3 position that Facebook will produce -- if I,

4 hypothetically, let the plaintiff submit another

5 set of 30(b)(6) depositions requests, and they 06:41:38

6 modify it accordingly, will you submit a different

7 witness to answer these questions?

8 MR. BLUME: If they're somehow permitted

9 to -- to file additional 30(b)(6)s --

10 SPECIAL MASTER GARRIE: Yes. 06:41:53

11 MR. BLUME: -- we'd have to take -- we'd

12 take that under consideration as to whether -- as

13 to whether to put someone up for yet another

14 30(b)(6), which would now be their third request.

15 I mean, there are interrogatories they had -- 06:42:02

16 SPECIAL MASTER GARRIE: Well, when you

17 read it, Judge Chhabria was pretty clear as to

18 what is -- he was pretty -- I have pretty good

19 clarity as to this part. So -- okay.

20 MR. BLUME: If they -- they -- if -- 06:42:15

21 yeah, if they -- if they want -- if you -- if you

22 want to give them permission to continue with

23 another -- with another 30(b)(6) witness on those

24 specific topics, we know they know how to ask them.

25 They should do it properly and we'll consider it 06:42:27

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1 when we get it. 06:42:29

2 SPECIAL MASTER GARRIE: Is the -- the
3 witness -- I mean, my concern again is the witness
4 isn't prepared to answer the -- the other pieces of
5 the question; is that --

06:42:42

6 MR. BLUME: Yeah.

7 SPECIAL MASTER GARRIE: -- basically your
8 concern?

9 MR. BLUME: Right. And I would ask you
10 -- I would ask you to determine that it -- she
11 wasn't required to prepare because then -- because
12 that's going to -- I'll -- we'll deal with another
13 request that's separate.

06:42:47

14 But what I don't want this witness to
15 believe when she leaves is she read "how," and that
16 she should have somehow interpreted "how" to mean
17 "what" and "when" and "which." And that she
18 somehow was inadequate in her efforts to prepare.

06:43:00

19 She spent a lot of time doing this and I
20 just don't think it's fair to suggest that when --
21 when we read "how" -- whether they're entitled to
22 do it again in another depo or another notice. And
23 that's fine --

06:43:13

24 SPECIAL MASTER GARRIE: And I got it,
25 Counsel Blume. I noted for -- I note your request

06:43:24

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1 for the record. 06:43:26

2 You can stop sharing, Counsel Ko.

3 I'm going to refrain from issuing any

4 ruling to your request, Counsel Blume, in part,

5 because I just haven't read them all. But I do -- 06:43:40

6 So Counsel Ko -- so Ms. Hendrix,

7 returning back to you, which is what we're here

8 for, I -- counsel gave the -- objected as beyond

9 the scope.

10 Is that correct, Counsel Blume? I 06:43:58

11 believe that was your objection.

12 MR. BLUME: It was.

13 SPECIAL MASTER GARRIE: Okay. Are you

14 going to heed the advice of counsel -- so I

15 would -- have them reread it all, but we're talking 06:44:08

16 about 30 pages. So I'm just cutting to the chase.

17 THE DEPONENT: I'm prepared to answer

18 everything that is described in the topics. And I

19 agree with my counsel that nothing in here asked me

20 to prepare how many violations of specific 06:44:26

21 provisions we've surfaced over the years.

22 SPECIAL MASTER GARRIE: I -- I'm not

23 ruling any which way or the other as to that. I

24 haven't -- I wasn't privy to the motions or -- or

25 the conversations between the lawyers. So I -- and 06:44:38

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1 we're -- and I -- and I don't know what was 06:44:42
2 exchanged.

3 So I -- I understand and appreciate where
4 you're coming from. And I -- and I -- and I
5 commend you for your patience today and -- as I 06:44:49
6 thought it was three hours as well.

7 So with that said, Counsel Ko -- so are
8 you going to answer the question or -- or follow
9 the instructions of counsel?

10 THE DEPONENT: I'm not prepared to answer 06:45:04
11 subjects that were not included in the topics that
12 I was asked to prepare for. So I -- I can't answer
13 the question. I'm going to follow my -- advice of
14 counsel.

15 SPECIAL MASTER GARRIE: There you go. 06:45:18
16 We'll just stop there.

17 Counsel Ko, ask another question.

18 Q. (By Mr. Ko) So outside of the examples
19 that you gave for the various ways in which
20 Facebook would enforce, was it also the case that 06:45:31
21 individual employees often determined whether or
22 not Facebook would enforce against a particular
23 third party?

24 A. Human beings are charged with -- to the
25 extent, they are -- for example, on developer 06:45:51

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1 operations, they are accountable to understand and 06:45:53
2 know the policies. To the extent they have
3 questions or surface any gray areas and aren't
4 sure, there are teams, like the data policy
5 management and enforcement team and the product 06:46:04
6 policy team that manages most of the provisions in
7 the developer policies, except those that apply to
8 collection and use of data obtained from us.

9 They would review those applications for
10 compliance. And to the extent they surfaced a 06:46:20
11 violation, they would look to what we refer to as
12 the enforcement rubric. That is a -- a document
13 that outlines each provision and what the -- the
14 appropriate enforcement action is, if we surfaced
15 those violations. And then they would be 06:46:39
16 instructed to follow those -- that -- and that take
17 that appropriate enforcement action.

18 I didn't speak in granularity with
19 respect to the enforcement actions that they could
20 take, but it's -- the enforcement actions would be 06:46:56
21 decided when we launched the policies and initially
22 developed that enforcement rubric, which first was
23 developed in 2009, because we wanted to ensure
24 consistency and uniformity in enforcement.

25 No one is accountable for making 06:47:15

1 exceptions because we are not an exceptions-based 06:47:18
2 company. If we surface a violation, we enforce
3 consistent with the enforcement rubric. And -- and
4 we do so -- for example, today, based solely on the
5 nature, scope, severity of the violation and not 06:47:32
6 with respect to the relationship that we have with
7 the developer who has been concluded by a human as
8 violating a specific provision.

9 Speaking of how it's gone during the
10 relevant period, it is true that during a period of 06:47:50
11 time the enforcement rubric did have a protocol for
12 reaching out to anyone who managed the relationship
13 with the partner to notify them that their partner
14 has been found to be violating one or more of the
15 respective provisions. 06:48:07

16 That has changed and now we do not have
17 that protocol and procedure. They are notified via
18 what we refer to as a FYI email that outlines what
19 we've surfaced and the fact that we will be
20 reaching out to their partner through the developer 06:48:23
21 operations team. So that they can be prepared to
22 respond to the developer.

23 To the extent the developer has any
24 questions or confusion, we encourage developers to
25 reply to the communications that we've sent that 06:48:37

1 outline the violations. But it is common -- 06:48:39
2 some -- common practice for a developer that has --
3 that is a managed partner to reach out to their --
4 the person at the company that they have that
5 direct relationship with on and -- but no 06:48:53
6 additional time is given in the context of that.
7 So developers -- all developers, whether managed or
8 unmanaged, must comply with the terms. There are
9 no exceptions. And they have the exact same amount
10 of time afforded to them whether they are managed 06:49:11
11 or unmanaged. And the enforcement rubric -- which
12 is what we look to when the team surfaces a
13 violation.

14 Q. And what is the case that all developers
15 did, in fact, comply with these terms? 06:49:24

16 A. I don't understand your question.

17 Q. Are you aware of the instances in which
18 developers did or did not comply with the terms
19 that you had described a moment ago?

20 A. As we've done throughout today, I will do 06:49:46
21 my own bitching and moaning. I have already
22 answered that question twice.

23 So for the third time, I will let you
24 know that I am not prepared to tell you every
25 single violation that has been surfaced and 06:49:57

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1 confirmed from 2007 to 2022. I was not asked to 06:50:02
2 prepare for that. It is not included in the topics
3 that you wrote.

4 It's how do these processes work. I have
5 explained in thorough detail, potentially like 06:50:11
6 overly explaining how we're doing this. But,
7 again, I would just ask that we try not to repeat
8 questions I've answered because I am getting tired.
9 But I will stay here all night.

10 Q. Well, to be fair, Ms. Hendrix, I was 06:50:31
11 responding to your question -- or your response
12 that you didn't understand my question. But it
13 sounds like you understood my question.

14 MR. BLUME: Anyway, since -- can you ask
15 the next one. 06:50:43

16 Q. (By Mr. Ko) Wasn't it the case that
17 Facebook's existing relationship with a third party
18 and the type of partner they were, determined
19 whether or not Facebook was going to enforce its
20 policies against that third party? 06:50:59

21 A. Absolutely not.

22 Q. With respect to the enforcement rubric,
23 can you identify any instances in which employees
24 went outside of that rubric to decide not to
25 enforce against a particular third party? 06:51:15

1 A. As I've just said and said earlier, we 06:51:19
2 are not an exception-based company. Have we given
3 part- -- managed partners additional time to come
4 into compliance due to the need to reach out to the
5 managed partners so they know that we've surfaced 06:51:30
6 an issue, the answer to that is there -- is some
7 time during the relevant period where -- where you
8 look to the rubric, and there's a column for
9 managed and unmanaged, which shows the developer
10 operations team, that they need to take that 06:51:43
11 additional step of notifying the partner manager of
12 what they have surfaced within the application.
13 And -- but there's not any instances where we would
14 ignore or turn a blind eye to a violation.
15 The only distinction as between managed 06:52:02
16 and unmanaged would be there have been times where
17 a developer might get a little bit more time due to
18 the need to reach out to the partner manager. But
19 at the end of the day, we always enforce those
20 provisions as we surface any violation. 06:52:19
21 Q. But how did Facebook ensure that they
22 were actually enforcing those provisions?
23 A. Through the required -- through the
24 education of the policies. So your job on
25 developer operations is not just to enforce the 06:52:39

1 policies. But in order to effectively enforce 06:52:40
2 them, you have to ensure that you have a very
3 strong understanding of all of the terms and
4 policies that are applicable to each respective
5 application. 06:52:50

6 To the extent that you acquire that
7 knowledge, if you ever are unsure, the process
8 calls to reach out to either the data policy
9 management and enforcement team. Or for
10 nondata-policy-related questions, for the policy 06:53:02
11 team that handles everything that my team does not,
12 you can ask for gray areas.

13 We will either use that as a trigger to
14 inform the need to potentially develop -- going
15 back to another topic -- to develop new policies -- 06:53:19
16 so if we think we need to be clearer, or we go back
17 to the -- the teammate on developer ops and we let
18 them know, hey, this is not a gray area. This is
19 the respective provision or provisions that you
20 should cite to or give other kind of guidance or 06:53:34
21 clarity.

22 So there is -- through education. We
23 also do Q and A, where we audit a sample of the
24 enforcement actions that we've taken to -- and
25 decisions that we've made to assess and ensure for 06:53:52

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1 quality assurance perspectives that we are 06:53:55
2 effectively and accurately policing the platform
3 consistent with the terms and policies that we have
4 in place.

5 So yes, leaning in on all of the 06:54:12
6 additional methods that I described for the
7 automated and manual means for education, review,
8 re-review.

9 Q. Couldn't individuals like Mark Zuckerberg
10 or Sheryl Sandberg, or any other Facebook exec, for 06:54:29
11 that matter, determine whether or not Facebook
12 should enforce its platform policy against a
13 third party?

14 MR. BLUME: Objection. Was it -- was it
15 couldn't or didn't -- was what the first -- can 06:54:44
16 you -- I missed the first part of that question.

17 MR. KO: Couldn't.

18 MR. BLUME: Could you -- could the
19 reporter reread or you restate it.

20 MR. KO: Sure. 06:54:57

21 Q. (By Mr. Ko) Couldn't individuals like
22 Mark Zuckerberg and Sheryl Sandberg, for that
23 matter, any Facebook executive, determine whether
24 or not to enforce the platform policies -- enforce
25 Facebook's platform policy against a particular 06:55:13

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1 third party? 06:55:16

2 A. So you're wanting me to speculate on what
3 our executives might be able to do, given their
4 roles at our company?

5 Q. I'm not asking you to speculate -- 06:55:28
6 speculate.

7 I'm asking you, as a corporate designee
8 of Facebook, if you are aware of any instances, in
9 connection with Facebook's monitoring and
10 enforcement of third parties, of whether 06:55:39
11 individuals like Mark Zuckerberg or
12 Sheryl Sandberg, or any other Facebook executive,
13 for that matter, could determine themselves whether
14 or not to enforce platform policies against a
15 third party? 06:55:53

16 MR. BLUME: Objection. Compound. And
17 does call for speculation.

18 THE DEPONENT: Yeah. The word "could" --
19 of course, Mark could decide that -- if we told him
20 something was against policy, as with any human, he 06:56:06
21 could have feedback, like the culinary team, on
22 whether that policy should be in place or if it's
23 outdated or doesn't make sense, given the fact
24 that, you know, time goes go and things change.

25 So, sure, it's possible that any human, 06:56:21

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1 including external people outside of the company, 06:56:23
2 could have opinions on whether we should enforce.
3 But those opinions would be whether the efficacy of
4 the policy and retaining the policy itself, or
5 whether it should be clear or not, again, we are 06:56:41
6 not an exceptions-based policy.

7 Q. (By Mr. Ko) Have you ever heard of a T0
8 partner?

9 A. I've heard of T0.

10 Q. What is your understanding of T0? 06:57:03

11 A. I don't -- I don't remember. I just know
12 I've heard of it. But it doesn't apply in the
13 context of the monitoring enforcement and policing
14 of the platform and whether to enforce on
15 violations, whether you're T0 or however far the 06:57:22
16 numbers go.

17 So I'm not remembering right now. I
18 don't -- that's not relevant to the question of
19 whether a developer with that designation has -- to
20 the extent, they even -- it's relevant to them -- 06:57:37
21 has that status. That -- that's not relevant to
22 the question of whether they're violating our
23 policies and whether we will enforce them.

24 Q. Is there a policy or enforcement rubric
25 that governs how Facebook would enforce its 06:57:50

1 policies as to partners that were in the T0 06:57:51
2 category?
3 A. It --
4 MR. BLUME: Object. Other than the
5 ones -- the policies she's already spoken of? 06:57:59
6 MR. KO: I have a question. You can
7 raise an objection --
8 SPECIAL MASTER GARRIE: Object --
9 Counsel Blume, you didn't make an objections.
10 Are you making an objection? 06:58:12
11 MR. BLUME: Well, I just -- I'm trying to
12 save time. She can go back through all the
13 policies again, or is she talking about --
14 SPECIAL MASTER GARRIE: Counsel, do you
15 have an objection to the question or not? 06:58:19
16 MR. BLUME: No. No objection. Object --
17 yes. Objection to form.
18 SPECIAL MASTER GARRIE: There you go.
19 Please answer the question, Ms. Hendrix.
20 THE DEPONENT: I, sitting here today, 06:58:32
21 don't believe T0, or that type of specificity. And
22 it was managed or unmanaged columns is what I'm
23 confident saying it has been. But it's -- that is
24 certainly not the case today.
25 Q. (By Mr. Ko) Have you heard of a T1 or T2 06:58:51

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1 partner? 06:58:53

2 A. Yes. And it -- I have this -- just for
3 purposes of our time, same response, we do not take
4 into account what -- what type of partner you are.

5 And we only enforce based on the nature, scope and 06:59:06
6 severity of the violation consistent with the
7 enforcement rubric, which does not distinguish
8 between tier zero and no tier partners, or anything
9 like that.

10 It's all whether -- whether Facebook 06:59:20
11 knows who you are and works with you directly
12 through our teams or not, through just a developer
13 that we haven't any type of direct relationship
14 with, other than our contract with you to comply
15 with our provisions and adhere to our terms. It is 06:59:38
16 not -- same response to any questions that you
17 presented with respect to tier -- tier zero.

18 Q. So with respect to -- I just want to make
19 sure the record is clear.

20 But with respect to T0, T1 and T2, is 06:59:54
21 there any policy or rubric that governed how
22 Facebook would enforce its policies as to partners
23 in these tiers?

24 MR. BLUME: Objection. Asked and
25 answered. 07:00:10

1 THE DEPONENT: I have nothing further to 07:00:12
2 add other than what I've said.

3 Q. (By Mr. Ko) Wasn't it also the case that
4 Facebook would factor in how much third parties
5 were spending on advertising on the Facebook 07:00:20
6 platform, before determining whether or not to
7 enforce its policies against these third parties?

8 A. Well, the previous question was never the
9 case. It's -- it's we only had managed and
10 unmanaged columns in the context of the rubric, and 07:00:34
11 none of that had anything to do on whether or not
12 to enforce or not.

13 Now, whether a developer was spending ing
14 zero dollars, or a lot more money than zero
15 dollars, that is not a factor in whether to 07:00:49
16 ultimately enforce the provision.

17 Q. So advertising spend was not a part of
18 the enforcement rubric, correct?

19 MR. BLUME: Objection. Asked and
20 answered. 07:01:05

21 THE DEPONENT: Correct. It's not a part
22 of the enforcement rubric. Partners might be like,
23 can we have more time; this is an important
24 partner, yada, yada. And we would let them know
25 that the developer must come into compliance with 07:01:16

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1 our policies. And now, sitting here present day, 07:01:19
2 that doesn't contemplate any extensions of time
3 that we wouldn't afford in -- to a nonmanaged
4 developer.

5 And, again, those extensions are baked 07:01:29
6 into the rubric. So for example, you don't get an
7 extension for severity -- high severity provisions.

8 Q. (By Mr. Ko) Are you familiar with the
9 2012 FTC consent decree?

10 A. Yes, I am. 07:01:46

11 Q. Are you aware of the subsequent 2019 FTC
12 enforcement action?

13 A. Yes.

14 Q. So the consent decree and the subsequent
15 enforcement action, would you agree with me, would 07:01:57
16 that relate to -- in some manner would that relate
17 to Facebook's monitoring and enforcement?

18 MR. BLUME: Objection, to the extent it
19 calls for a legal -- to the extent you
20 understand -- to the extent the answer to that 07:02:15
21 question calls into effect conversations with
22 counsel, I'd instruct you not to answer.

23 THE DEPONENT: So the order, which is
24 publicly available for you to read, does have a
25 section that contemplates the -- that contemplates 07:02:32

1 broadly monitoring and enforcement. 07:02:41

2 And -- and we did also -- and I
3 personally remember meeting with the auditor in the
4 context of the 12K, so I feel comfortable
5 confirming again -- and that's public -- that, yes,
6 both of those orders do speak to monitoring and
7 enforcement.

8 Q. (By Mr. Ko) Thank you.

9 And in the -- the initial FTC consent
10 decree in 2012, Facebook agreed to certain 07:03:07
11 provisions and certain things, for lack of a better
12 term, to improve their monitoring and enforcement
13 of their policies; is that fair to say?

14 MR. BLUME: Objection. To the extent the
15 consent decree speaks for itself as to its terms, 07:03:30
16 it does --

17 SPECIAL MASTER GARRIE: Counsel --

18 MR. BLUME: -- as to specific --

19 SPECIAL MASTER GARRIE: What's the
20 objection? 07:03:38

21 MR. BLUME: That the consent decree
22 speaks for itself. It's the best evidence of what
23 it says.

24 SPECIAL MASTER GARRIE: Let's do with
25 best evidence. Okay. 07:03:47

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1 Q. (By Mr. Ko) You can answer. 07:03:52

2 SPECIAL MASTER GARRIE: Are you
3 instructing the witness not to answer the question
4 or --

5 MR. BLUME: As to the terms of the 07:03:56
6 consent decree is beyond the scope of her topic.
7 But I'm sure -- if you want to show it to her, she
8 can walk through it with you, Mr. Ko.

9 SPECIAL MASTER GARRIE: I don't want to
10 show it to her. But Counsel Ko, would you like 07:04:08
11 to -- so --

12 MR. KO: I -- I would like an answer to
13 my question.

14 SPECIAL MASTER GARRIE: Ms. Hendrix --

15 THE DEPONENT: Yeah. 07:04:20

16 MR. BLUME: If you -- if you know the
17 answer, answer.

18 THE DEPONENT: So the only team that is
19 allowed to interpret the language of each of those
20 orders is the legal team. The only communications 07:04:27
21 with respect to the interpretation of the order is
22 privileged conversations that we've had with the
23 legal team.

24 So their -- we can rely on the language
25 of the order, but I am not able to speak to 07:04:40

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1 nonprivileged conversations about the order because 07:04:45
2 the legal team interprets and provides guidance on
3 the order.

4 And even present day, I tell my teams,
5 you do not try to interpret the order. You go to 07:04:57
6 the legal team to interpret any questions you have
7 about the order.

8 MR. KO: Wasn't it a widely held --

9 THE COURT REPORTER: I need a break in
10 a -- at a convenient time. We've been going for 07:05:04
11 over an hour.

12 MR. KO: Sorry about that, Rebecca.

13 SPECIAL MASTER GARRIE: What kind of a
14 break do you need?

15 THE COURT REPORTER: Five minutes. Ten 07:05:18
16 minutes.

17 MS. WEAVER: Sounds good. We are going
18 off the record. We're talking a five-minute break.

19 THE VIDEOGRAPHER: Okay. We're off the
20 record. It's 7:05 p.m. 07:05:28

21 (Recess taken.)

22 THE VIDEOGRAPHER: We're back on the
23 record at 7:16 p.m.

24 MR. KO: Ms. Hendrix, congratulations. I
25 have no further questions. 07:16:49

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1 I just want to note for the record that 07:16:50
2 consistent with our prior representations,
3 plaintiffs reserve the right to reopen this
4 deposition as to these topics.

5 MR. BLUME: And consistent, I thought, 07:17:01
6 with Special Master Garrie's request to finish up
7 those topics, short of objections and debating over
8 the questions that were asked and objected to,
9 again, we -- we have -- we were not prepared to
10 bring this witness back on these topics. She 07:17:20
11 remains available to answer them. Although we've
12 gone beyond seven hours, we're still making her
13 available to answer questions on all those topics.

14 And so I, again, urge you to finish the
15 questions on these topics because those -- it's -- 07:17:33
16 I'm not sure what your objection would be to
17 questions not yet asked about topics and why you
18 would be permitted to leave open the deposition to
19 cover ground you have not yet covered, when we're
20 making her available to finish this out today. 07:17:51

21 SPECIAL MASTER GARRIE: I'll note it for
22 the record, Counsel Blume.

23 Counsel Ko, you both have extensively
24 exhausted the record on this issue two hours
25 earlier. Both sides' positions are noted. 07:18:04

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1 I'm still denying your request, 07:18:06
2 Counsel Blume. And --
3 MR. BLUME: Close it out.
4 SPECIAL MASTER GARRIE: No further
5 questions from Counsel Ko; is that correct, 07:18:17
6 Counsel Ko?
7 MR. KO: Correct.
8 SPECIAL MASTER GARRIE: Counsel Blume,
9 any instructions --
10 MR. BLUME: No, nothing from us. 07:18:28
11 SPECIAL MASTER GARRIE: Okay. Before we
12 go off the record, we would -- the standing orders
13 for the transcript, because this is a 30(b)(6) --
14 you weren't sure, Counsel Blume.
15 Is there anybody here from your team that 07:18:39
16 might be able to clarify?
17 MR. BLUME: I assume would -- I -- I
18 assume it's the same standing order as -- we'll --
19 we'll -- Rebecca, we'll let you know. But it's the
20 same standing order as we have for the other 07:18:51
21 depositions, please.
22 SPECIAL MASTER GARRIE: As long as it's
23 the same. That's fine.
24 MS. HERBERT: It's the same.
25 MR. BLUME: Yeah, the same. Okay. 07:18:57

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1 THE COURT REPORTER: Got -- got it. 07:19:00

2 MR. BLUME: Excellent.

3 THE DEPONENT: Rebecca, thank you.

4 Nice to meet everybody. But a sincere

5 thank you. I -- I could see -- even I 07:19:06

6 participating in that overtalking. And I apologize

7 for when I did it. I'm sure everybody else has the

8 same -- so thank you. And I hope you have a good

9 night's rest.

10 SPECIAL MASTER GARRIE: You are the 07:19:24

11 witness, Ms. Hendrix. They should never talk over

12 you.

13 MR. BLUME: All right. Are we off?

14 THE DEPONENT: Thank you, John. Thank

15 you. 07:19:29

16 THE VIDEOGRAPHER: Okay to go off the

17 record everybody?

18 SPECIAL MASTER GARRIE: Yes.

19 THE VIDEOGRAPHER: Thank you. We're off

20 the record. It's 7:19 p.m. 07:19:33

21 (TIME NOTED: 7:19 p.m.)

22

23

24 ---o0o---

25 07:19:36

1 I, ALLISON HENDRIX, do hereby declare under
2 penalty of perjury that I have read the foregoing
3 transcript; that I have made any corrections as
4 appear notes; that my testimony as contained
5 herein, as corrected, is true and correct.

6 Executed this ____ day of _____,
7 2022, at _____, _____.

8
9
10
11 _____
ALLISON HENDRIX

1 I, Rebecca L. Romano, a Registered
2 Professional Reporter, Certified Shorthand
3 Reporter, Certified Court Reporter, do hereby
4 certify:

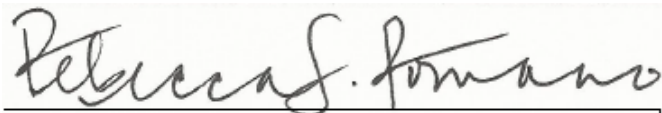
5 That the foregoing proceedings were taken
6 before me remotely at the time and place herein set
7 forth; that any deponents in the foregoing
8 proceedings, prior to testifying, were administered
9 an oath; that a record of the proceedings was made
10 by me using machine shorthand which was thereafter
11 transcribed under my direction; that the foregoing
12 transcript is true record of the testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a Federal
15 Case, before completion of the proceedings, review
16 of the transcript [] was [X] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee
19 of any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22
23 Dated: May 10, 2022

A handwritten signature in cursive script, reading "Rebecca L. Romano", written in black ink on a light-colored background.

Rebecca L. Romano, RPR, CCR

CSR. No 12546

1 DAVID KO, ESQ.

2 dko@kellerrohrback.com

3 May 10, 2022

4 IN RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION

5 MAY 5, 2022, ALLISON HENDRIX, JOB NO. 5210138

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of
21 Counsel - Original transcript to be released for signature
22 as determined at the deposition.

23 ___ Signature Waived - Reading & Signature was waived at the
24 time of the deposition.

25

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1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 _X_Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

IN RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
ALLISON HENDRIX, JOB NO. 5210138

E R R A T A S H E E T

PAGE_____ LINE_____ CHANGE_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

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REASON_____

WITNESS

Date

CONFIDENTIAL UNDER THE PROTECTIVE ORDER



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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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